

1 CDC[MR.COOMBS]: No, Your Honor.

2 MJ: All right. Lastly, for this charge and specification,  
3 let's talk about -- oh, we already talked about Specification 15,  
4 didn't we? All right.

5 ACC: Yes, Your Honor.

6 MJ: Any other remaining specifications for charges under 18 --  
7 the lesser included offenses for 18 United States Code, Section  
8 793(e)?

9 TC[MAJ FEIN]: No, ma'am.

10 CDC[MR.COOMBS]: No, Your Honor.

11 MJ: All right. PFC Manning, do you admit that, at or near  
12 Contingency Operation Station Hammer, Iraq, and for Specifications 5  
13 and 7, also, at or near Rockville, Maryland, for Specification 2,  
14 between on or about February 2010 [sic] and 21 February 2010, you,  
15 without authorization, had possession of, access to, or control over  
16 a video file named, "12 Jul 07 CZ Engagement Zone 30GC anyone.avi"?

17 ACC: Yes, Your Honor.

18 MJ: Do admit, for Specification 3 of Charge II, that between on  
19 or about 17 March 2010 and 22 March 2010, you, without authorization,  
20 had possession of, access to, or control over more than one  
21 classified memorandum produced by a United States government  
22 intelligence agency?

23 ACC: Yes, ma'am.

1 MJ: For Specification 5, to admit that, at or near Contingency  
2 Operation Station Hammer, Iraq and at or near Rockville, Maryland  
3 that you, without authorization, had possession of, access to, or  
4 control over more than 20 classified records from the Combined  
5 Information Data Network Exchange-Iraq database?

6 ACC: Yes, ma'am.

7 MJ: Do admit, for Specification 7, that, at or near Contingency  
8 Operation Station Hammer, Iraq, and at or near Rockville, Maryland,  
9 between on or about 5 February -- or 5 January 2010 and 3 February  
10 2010, you, without authorization, had possession of, access to, or  
11 control over more than 20 classified records from the Combined  
12 Information Data Network Exchange-Afghanistan database?

13 ACC: Yes, ma'am.

14 MJ: For Specification 9, do admit that, at or near Contingency  
15 Hammer Station, Iraq [sic], that on or about 8 March 2010, you,  
16 without authorization, had possession of, access to, or control over  
17 more than three classified records from the United States Southern  
18 Command database?

19 ACC: Yes, ma'am.

20 MJ: For Specification 10, do admit that, at or near Contingency  
21 Operating Station Hammer, Iraq, between on or about 10 April 2010 and  
22 12 April 2010, you, without authorization, had possession of, access  
23 to, or control over more than five classified records relating to a

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1 military operation in Farah Province, Afghanistan occurring on or  
2 about 4 May 2009?

3 ACC: Yes, ma'am.

4 MJ: For Specification 15, do you admit that, at or near  
5 Contingency Hammer -- Operating Station Hammer, Iraq, on or about 8  
6 March 2010, you, without authorization, had possession of, access to,  
7 or control over a classified record produced by a United States Army  
8 intelligence organization, dated 18 March 2008?

9 ACC: Yes, ma'am.

10 MJ: All right. For all of the specifications, do you admit  
11 that you willfully communicated the classified records, classified  
12 memorandum, videos, and files described for each specification  
13 described in element one to a person not entitled to receive it?

14 ACC: Yes, Your Honor.

15 MJ: And do you admit that, under the circumstances, your  
16 conduct was to the prejudice of good order and discipline in the  
17 armed forces or the nature to bring discredit upon the armed forces?

18 ACC: Yes, Your Honor.

19 MJ: All right. Let's move into Specifications 13 and 14 of  
20 Charge II which are the lesser included offenses to the offenses  
21 charged as a violation of 18 United States Code, Section 1030(a)(1),  
22 and Article 134.

1 All right, Specifications 13 and 14 of Charge II allege the  
2 offense of fraud and related activity in connection with computers in  
3 violation of Title 18, United States Code, Section 1030(a)(1) and  
4 Article 134, UCMJ. Your counsel has entered a plea of guilty by  
5 exceptions and substitutions for you to the lesser included offense  
6 of conduct prejudicial to good order and discipline and service  
7 discrediting conduct in violation of Article 134, UCMJ, clauses one  
8 and two.

9 Now, your plea of guilty admits that the following elements  
10 are true and accurately describe what you did:

11 One, that at or near Contingency Operation Station Hammer,  
12 Iraq, for Specification 13 between on or about 28 March 2010 and on  
13 or about 4 May 2010; for Specification 14, between on or about 14  
14 February 2010 and 15 February 2010, you knowingly accessed a computer  
15 on a Secret Internet Protocol Router Network.

16 Element two, that you obtained information that has been  
17 determined by the United States government, by executive order or  
18 statute, to require protection against unauthorized disclosure for  
19 reasons of national defense or foreign relations, to wit:  
20 Specification 13, more than 75 classified United States Department of  
21 State cables; in Specification 14, a classified Department of State  
22 cable titled "Reykjavik 13."

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1           Element three, that you communicated, delivered,  
2 transmitted, or caused to be communicated, delivered, or transmitted  
3 the information to a person not entitled to receive it.

4           Element four, that you acted willfully.

5           And element five, that under the circumstances, your  
6 conduct was to the prejudice of good order and discipline in the  
7 armed forces or was of a nature to bring discredit upon the armed  
8 forces.

9           The same definitions for "prejudice to good order and  
10 discipline in the armed forces" and "of a nature to bring discredit  
11 upon the armed forces" that I read for you for the offenses charged  
12 in Specifications 2, 3, 5, 7, 9, 10, and 15 of Charge II also apply  
13 to this offense.

14           Would you like me to read them to you again?

15           ACC: No, Your Honor, that's not necessary.

16           MJ: An act is done willfully if it is done voluntarily and  
17 intentionally with a specific intent to do something the law forbids,  
18 that is, with a bad purpose to disobey or disregard the law.

19           An act is done knowingly if it's done voluntarily and  
20 intentionally and not because of a mistake or accident or other  
21 innocent reason.

22           The term "computer" means an electronic, magnetic, optical,  
23 electrochemical, or other high-speed data processing device

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1 performing logical, arithmetic, or storage functions and includes any  
2 data storage facility or communications facility directly related to,  
3 or operating in conjunction with such device, but the term does not  
4 include an automatic typewriter or typesetter, portable handheld  
5 calculator, or a similar device.

6 All right. Once again, in -- I defined "person" for you,  
7 earlier; the same definitions apply. Would you like me to read that  
8 again?

9 ACC: No, Your Honor.

10 MJ: All right. And if this was going to a trier of fact, in  
11 determining whether the person who received the information was  
12 entitled to receive it, the trier of fact may consider all the  
13 evidence introduced at trial, including any evidence concerning the  
14 classification status of the information, any evidence relating to  
15 law or regulations governing classification and declassification of  
16 national security information, its handling use and distribution, as  
17 well as any evidence relating to regulations governing the handling,  
18 use, and distribution of the information obtained from the classified  
19 systems.

20 Do you understand the elements and definitions as I read  
21 them to you?

22 ACC: Yes, ma'am.

23 MJ: Do you have any questions about them?

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1 ACC: No, ma'am.

2 MJ: Do you understand that your plea of guilty admits that  
3 these elements accurately describe what you did?

4 ACC: Yes, Your Honor.

5 MJ: Do you believe and admit that the elements and definitions,  
6 taken together, correctly describe what you did?

7 ACC: Yes, Your Honor.

8 MJ: Now, do you understand -- also, same for this offense as  
9 the other offenses, that -- if -- your plea to the lesser included  
10 offenses I just read is going to establish some of the elements for  
11 the government if they intend to proceed with the greater offenses?

12 ACC: Yes, Your Honor.

13 MJ: I just want to stop here and make sure both sides agree  
14 with this. Even though -- I distinguished the elements that -- what  
15 your plea would establish and what the government had left to prove.  
16 What I neglected to say is there is some discrepancy in the dates.  
17 You pled by exceptions and substitutions to dates, so if the  
18 government has a broader date range, even in an element you  
19 established by your plea, the government still has to prove that  
20 broader date range. Okay? Do you understand that?

21 ACC: Yes, Your Honor.

22 MJ: Do both sides agree with that?

23 CDC[MR.COOMBS]: Yes, Your Honor.

1 TC[MAJ FEIN]: Yes, Your Honor.

2 MJ: All right. Let's talk about Specification -- well, let's  
3 talk about Specification 14 first. That's the Reykjavik cable?

4 ACC: Yes, Your Honor.

5 MJ: All right. Where is that in your ----

6 ACC: Its Page 17, Your Honor.

7 MJ: Okay. This was the cable where I believe you were talking  
8 about you were beginning in -- to get interested in this Icesave?

9 ACC: Yes, Your Honor.

10 MJ: Okay. Now, what -- this cable entitled "Reykjavík," it's  
11 from the Department of State Net-Centric Diplomacy portal. What is  
12 that?

13 ACC: It is the -- or was the SIPR -- one of the SIPR portals  
14 that the Department of State had that published -- I guess their wide  
15 distribution tables, Your Honor.

16 MJ: So, did -- you had access to SIPRNET as part of your  
17 duties?

18 ACC: Yes, Your Honor.

19 MJ: And you were cleared to have access to that level of  
20 information?

21 ACC: Yes, Your Honor.

22 MJ: Now, you testified earlier that you had gone to SIPRNET to  
23 get CENTCOM and SOUTHCOM and other database information. Was this



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1 Department of State site on the same SIPRNET -- you know -- could you  
2 go to the Department of State just like you could go to CENTCOM or  
3 SOUTHCOM?

4 ACC: Yes, Your Honor, you just change the address that you go  
5 to, yes.

6 MJ: So, were you authorized to go and get that Department of  
7 State -- to access that portal?

8 ACC: Yes, Your Honor, I was actually told to go there, Your  
9 Honor.

10 MJ: And were you told by this Captain Lim to go there?

11 ACC: Yes, Your Honor.

12 MJ: Okay. Who is Captain Lim?

13 ACC: Captain Lim was originally the Assistant S-2 and after our  
14 full-time S-2 shifted to a different position, he became -- he  
15 covered down and became the brigade S-2, Your Honor.

16 MJ: All right. So, were you and the other analysts all  
17 authorized to go to this database?

18 ACC: Yes, Your Honor.

19 MJ: And did you use it in your intelligence analyst duties?

20 ACC: I did, Your Honor, yes.

21 MJ: The information from it?

22 ACC: Yes, Your Honor.

1 MJ: Okay. Now, was this information -- you testified earlier  
2 that not all of it was classified, but was this Reykjavik cable  
3 classified?

4 ACC: It was, Your Honor.

5 MJ: Now, what did you do -- so, then, were you authorized from  
6 that portal to download it onto a portable medium and take it to your  
7 house -- or your CHU?

8 ACC: No, Your Honor.

9 MJ: Okay. What did you do -- did you download that cable?

10 ACC: I did, Your Honor.

11 MJ: On what?

12 ACC: I took the web page and I copied and pasted the data onto a  
13 text file which I then burned to a CD containing some other things --  
14 I don't remember what -- and then I took that to my CHU, Your Honor.

15 MJ: And what did you do with that when you went -- when you got  
16 to your CHU?

17 ACC: I put that onto my personal computer and then uploaded it  
18 using the form, Your Honor.

19 MJ: Using what form?

20 ACC: The website form for the WikiLeaks website.

21 MJ: So, you uploaded that Reykjavik cable to your personal  
22 computer and then -- am I understanding your testimony -- that you  
23 sent that cable to WikiLeaks?

1 ACC: Correct, Your Honor.

2 MJ: On the form that they told senders to use?

3 ACC: Yes, Your Honor.

4 MJ: Okay. And, once again, same as the other things, were you  
5 acting willfully?

6 ACC: Yes, Your Honor.

7 MJ: Did you know you are violating the law?

8 ACC: I did, Your Honor, yes.

9 MJ: Okay. Did you -- was WikiLeaks entitled to receive this  
10 Department of State cable?

11 ACC: No, Your Honor.

12 MJ: Were they authorized to receive it?

13 ACC: No, Your Honor.

14 MJ: Okay. Were you authorized to send it?

15 ACC: I was not, Your Honor.

16 MJ: Were you authorized to take it out of the SCIF?

17 ACC: No, Your Honor.

18 MJ: These offenses also have the element of conduct prejudicial  
19 to good order and discipline and service discrediting conduct. Do  
20 you believe your conduct, in sending this Reykjavik cable to  
21 WikiLeaks, was prejudicial to good order and discipline?

22 ACC: It was, Your Honor, yes.

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1 MJ: And was it for the same reason we talked about earlier or  
2 different reasons?

3 ACC: Definitely the same reasons, Your Honor, yes.

4 MJ: Do you believe it was service discrediting?

5 ACC: Yes, Your Honor.

6 MJ: And for the same reasons we talked about earlier or for  
7 different reasons?

8 ACC: The same reasons, Your Honor.

9 MJ: Okay. You talked about, here, in your statement that you,  
10 basically, concluded that Iceland was being bullied, diplomatically,  
11 by two larger European powers and out of viable solutions and coming  
12 to the U.S. for assistance and it didn't appear that we were going to  
13 do anything. We're you in a position of authority to decide what the  
14 United States government was going to do with respect to Iceland?

15 ACC: No, Your Honor.

16 MJ: Did -- We talked about the defense of justification and  
17 necessity already. Do you believe the fact that you -- you had a  
18 personal belief in this -- that that somehow gave you an authorized  
19 military duty to send this cable to WikiLeaks?

20 ACC: I did not have that belief, no, Your Honor.

21 MJ: Okay. So, you had no military duty, then, to send this  
22 cable to WikiLeaks?

23 ACC: No, Your Honor.

1 MJ: Okay. And did you believe -- do you believe the defense of  
2 necessity, as I defined it before -- you know, were you preventing  
3 imminent harm to somebody, like the drowning person in the lake, by  
4 sending this cable?

5 ACC: Correct, Your Honor. So it doesn't ----

6 MJ: That's a bad question.

7 ACC: ---- apply.

8 MJ: Did I -- let me ask it again a better way. We talked about  
9 the defense of necessity.

10 ACC: Yes, Your Honor.

11 MJ: To talk about trespassing over somebody's house to rescue  
12 the drowning person because there is nobody else who can do it. When  
13 you sent this cable, were you in that kind of situation?

14 ACC: No, Your Honor, I was not.

15 MJ: Does the defense of necessity apply in your case?

16 ACC: No, Your Honor.

17 MJ: For this specification, did the ----

18 ACC: Not this specification, no Your Honor.

19 MJ: Okay. Does either side believe any further inquiry is  
20 required? Except for the date of the specification, did you act on -  
21 - just a minute, what's the date on the specification, here? That  
22 would be -- did you act on 15 -- between 15 February and 18 February  
23 of 2010?

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1 ACC: Yes, Your Honor, it was 14 February and 15 February, Your  
2 Honor.

3 MJ: Oh, I'm sorry, that's right. Those are the words you said  
4 -- 14 and 15 February 2010; that's the exceptions and substitutions  
5 you made. So, your conduct, here, in Specification 14, then, was  
6 between 14 February 2010 and 15 February 2010?

7 ACC: Yes, Your Honor.

8 MJ: Okay. Now, does either side believe any further inquiry is  
9 required?

10 ATC[CPT MORROW]: Your Honor, on Page 18, Paragraph F, the  
11 accused states, "I felt I might be able to right a wrong by having  
12 them publish this document." That line, in particular, tends to  
13 contradict something being service discrediting, so it might be  
14 something the Court wants to explore just one more time.

15 MJ: All right. Well, we went over a little bit and the  
16 government would like me to go over this in more detail. This is --  
17 your statement that they're talking about is, "I decided the cable  
18 was something that would be important and I felt I might be able to  
19 right a wrong by having them publish this document." So, you,  
20 personally, believed that you are doing a good thing, is that fair?

21 ACC: I felt it could be, yes, Your Honor.

1 MJ: Okay. So, we talked about, earlier, that -- did you have  
2 the authority to decide to declassify a cable and send it to  
3 WikiLeaks because you think a policy is a good thing?

4 ACC: Your Honor, being a junior-enlisted specialist, you know,  
5 in the Army, no, Your Honor.

6 MJ: So -- I mean -- so does somebody else get to make those  
7 decisions?

8 ACC: I imagine in this case it would be the Department of State  
9 in their channels, Your Honor.

10 MJ: So, if the Department of State determines that this cable  
11 should be classified and should not be released to WikiLeaks and you  
12 decide, as a personal matter, that you don't agree with that and you  
13 think it should be released to WikiLeaks and you do release it to  
14 WikiLeaks, the fact that you think you're doing the right thing, can  
15 that still be service discrediting?

16 ACC: Yes, Your Honor.

17 MJ: And why?

18 ACC: Because it -- if Soldiers in the position I had did that,  
19 then it -- I mean, it damages our perception -- the public's  
20 perception of how -- whether the military and the services can  
21 safeguard information, Your Honor.

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1 MJ: So, with respect to prejudice to good order and discipline,  
2 if -- is the military and organization that follows a chain of  
3 command?

4 ACC: Yes, Your Honor.

5 MJ: So, if someone at the top of the chain of command makes a  
6 decision and people below decide, "Well, I don't agree with that  
7 decision, so I'm going to live off of my own moral code and not  
8 follow the rules and regulations that are set forth by the people  
9 with authority to make those rules and regulations," what happens to  
10 the organization?

11 ACC: It -- you can't operate in that -- I mean, you just have --  
12 we would have junior ranks making decisions that contradict the  
13 orders and so the system would seize up, Your Honor.

14 MJ: So, do you think that could be prejudicial to good order  
15 and discipline?

16 ACC: Absolutely, Your Honor, yes.

17 MJ: All right. And is that sort of what you were talking to me  
18 -- when you were talking to me earlier about service discrediting  
19 conduct that might cause people to lose confidence in an organization  
20 if they see it sort of disintegrating like that?

21 ACC: Yes, Your Honor, it would be worrying, yes.



1 MJ: All right. And do you believe that your conduct in this  
2 case, you know, contributed, I guess to, at least a minor part, to  
3 that disorganization?

4 ACC: Yes, Your Honor.

5 MJ: Okay. Does the government believe any further inquiry is  
6 required?

7 ATC[CPT MORROW]: No, Your Honor.

8 CDC[MR.COOMBS]: No, Your Honor.

9 MJ: Now, let's look at Specification 13. Now, that talks about  
10 more than 75 classified cables. Now, did you have access to more  
11 than 75 classified cable -- Department of State cables?

12 ACC: Yes, Your Honor.

13 MJ: All right. Did you get those from the same portal that you  
14 got the Reykjavik cable from?

15 ACC: I did, Your Honor.

16 MJ: All right. And was that also done -- was that done between  
17 28 March 2010 and 4 May 2010?

18 ACC: It was done, I think, around the 10th of April, Your Honor.

19 MJ: All right. So, is the 10th of April between 28 March 2010  
20 and on or about 4 May 2010?

21 ACC: Yes, it is, Your Honor; April.

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1 MJ: Okay. So, it would be between those dates that -- I mean,  
2 that's the way that your plea by exceptions and substitutions has  
3 those dates. Do you believe that those are accurate dates?

4 ACC: Yes, Your Honor, I do.

5 MJ: Okay. Now, where on your timeline are we talking about --  
6 or in your statement are we talking about those cables in  
7 Specification 13 of Charge II?

8 ACC: It's Page 30, Your Honor, Section 11.

9 MJ: All right. So, this is -- so, when you -- are these cables  
10 the last thing that you uploaded and sent?

11 ACC: Yes, Your Honor.

12 MJ: Okay. So, we're getting, now, into the late March  
13 timeframe and you said in your statement that you had begun  
14 establishing a dialogue with some -- at least one person -- or two  
15 people from WikiLeaks?

16 ACC: At least one user account. I don't know what was on the  
17 other side, Your Honor.

18 MJ: Okay. And I guess at some point in your statement you were  
19 talking about -- you began to look at these Department of State  
20 cables and you began to be really interested in them?

21 ACC: Yes, Your Honor.

22 MJ: Okay. Tell me about that.

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1 ACC: Well, in the course of my duties, I previously started  
2 looking at, as directed -- I started looking at cables, more  
3 specifically, for the Baghdad series of cables and then things that  
4 were tagged with "Iraq" -- so, the general area of Iraq and then I  
5 went over to Afghanistan and then I started looking just wherever my  
6 interest piqued, Your Honor.

7 MJ: Okay. And did you download any cables off of the SIPRNET?

8 ACC: Yes, Your Honor.

9 MJ: And to what?

10 ACC: To, first, the -- my workstation, Your Honor, and then from  
11 the workstation onto CD -- onto DVD-RW and then onto my personal  
12 laptop.

13 MJ: Okay. So, did you do this, basically, the same way that --  
14 and you were -- were you authorized to access the portal to get the  
15 cable -- to look at the cables?

16 ACC: Yes, Your Honor.

17 MJ: Were you authorized to download them to your personal  
18 workstation?

19 ACC: To my workstation? Yes, Your Honor.

20 MJ: Were you authorized to download them to a CD?

21 ACC: Yes, Your Honor.

22 MJ: Were you authorized to take them out of the SCIF?

23 ACC: No, Your Honor.

1 MJ: All right. Were you authorized put them on your personal  
2 computer?

3 ACC: No, Your Honor.

4 MJ: Were you authorized -- did you transfer them to WikiLeaks?

5 ACC: I re-did the documents to clean them up and then I uploaded  
6 them.

7 MJ: Okay. When you said you re-did the documents to clean them  
8 up, what does that mean?

9 ACC: There was a lot of, like, extraneous formatting that I  
10 removed from the documents and I put it into a table, Your Honor.

11 MJ: Other than formatting, did you take any -- did you change  
12 any of the substance?

13 ACC: No substance changes, no, Your Honor.

14 MJ: So -- what -- and these more than 75 cables were  
15 classified, the charged cables?

16 ACC: Yes, Your Honor.

17 MJ: And did you move anything -- remove anything from those  
18 cables that would have made them unclassified?

19 ACC: No, Your Honor.

20 MJ: So, when you sent them to WikiLeaks, were they still  
21 classified?

22 ACC: They still had classification markings, yes, Your Honor.

1 MJ: Well, if the substance didn't change, would the reason that  
2 they had classification markings still be present?

3 ACC: Yes, Your Honor.

4 MJ: Okay. So, you didn't change the words?

5 ACC: Correct, Your Honor.

6 MJ: You just changed the formatting, is that what I'm hearing?

7 ACC: Changed how it worked and how you accessed it, Your Honor.

8 MJ: But the words of the substance from what you took out of  
9 the State Department portal and what you, ultimately, wound up  
10 sending to WikiLeaks was the same?

11 ACC: Yes, Your Honor.

12 MJ: Okay. Did you act willfully?

13 ACC: Yes, Your Honor.

14 MJ: And was WikiLeaks entitled to receive the State Department  
15 -- the classified State Department cables?

16 ACC: No, Your Honor.

17 MJ: And, under the circumstances, was your conduct to the  
18 prejudice of good order and discipline in the armed forces or of a  
19 nature to bring discredit upon the armed forces?

20 ACC: No, Your Honor -- well, yes -- I think. Yes, it is ----

21 MJ: Okay. Let me ask the question again ----

22 ACC: ---- prejudicial.

1 MJ: Sometimes my questions can be confusing. Was your conduct  
2 to the prejudice of good order and discipline in the armed forces?

3 ACC: Yes, Your Honor.

4 MJ: Was is of a nature to bring discredit upon the armed  
5 forces?

6 ACC: Yes, Your Honor.

7 MJ: Was -- are you answering "yes" because of the reasons we  
8 spoke about earlier or for different reasons?

9 ACC: The same reasons, Your Honor.

10 MJ: Okay. So, am I -- what I'm hearing you tell me, is, then -  
11 - basically, for all these specifications that we talked about today,  
12 your conduct was prejudicial to good order and discipline and service  
13 discrediting conduct for the same reason?

14 ACC: Yes, Your Honor.

15 MJ: All right. You also say here that you were talking about  
16 looking at the Department of State cables and how they were --you  
17 know, they're SIPDIS means it goes onto SIPRNET and a lot of people  
18 have access to SIPRNET -- when classified documents are on SIPRNET  
19 and a lot of people are cleared to have access to SIPRNET, does that  
20 give you any authorization, justification, or excuse to -- does that  
21 mean those can be downloaded off of SIPRNET to personal computers and  
22 shipped to people who don't have clearances?

23 ACC: No, Your Honor.

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1 MJ: Okay. So, even though a lot of people have access to  
2 SIPRNET, it's a controlled access? I mean, did somebody give them  
3 authority to get onto SIPRNET or can any Tom, Dick, and Harry just go  
4 onto SIPRNET?

5 ACC: If you have -- at the time, if you had access to a SIPRNET  
6 computer and you were on SIPRNET, you have access to the Net-Centric  
7 Diplomacy site, Your Honor.

8 MJ: I guess where I'm going is -- to -- for a person to get  
9 access to SIPRNET, you have to -- does someone have to give you a  
10 username and password?

11 ACC: For our unit, it was the S-6 that would give us that, Your  
12 Honor.

13 MJ: All right. So, say I walk into your unit at Contingency  
14 Operation Base Hammer and I haven't been authorized by anybody to do  
15 anything with respect to SIPRNET and I walk into the SCIF, can I go  
16 on SIPRNET?

17 ACC: No, Your Honor, you would have to -- we wouldn't let you  
18 in, Your Honor.

19 MJ: But I guess where I'm going with this is to get onto  
20 SIPRNET, are there some kind of controls so I can't get on it if I  
21 walk into the SCIF on Contingency Operation Base Hammer?

22 ACC: In the SCIF? Yes, Your Honor.

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1 MJ: Okay. If there is SIPRNET anywhere other than the SCIF,  
2 are there some controls on who can get on it and who can have access  
3 to that information?

4 ACC: Sometimes no, Your Honor.

5 MJ: No? Okay. So anybody can just get on and go use it?

6 ACC: For some workstations, yes, Your Honor. Legally, no, but  
7 the reality was yes.

8 MJ: Okay. WikiLeaks -- are they -- would they have any  
9 authorization under any circumstances to access the SIPRNET computer?

10 ACC: No, Your Honor.

11 MJ: So, when you downloaded that Department of State  
12 information and brought it to your personal computer and when you  
13 sent it to WikiLeaks, did you have any thought in your mind that they  
14 were legally authorized to receive it?

15 ACC: No, Your Honor.

16 MJ: Okay. So you knew what you're doing was wrong?

17 ACC: Yes, Your Honor.

18 MJ: And you knew it was against the law?

19 ACC: Correct, Your Honor.

20 MJ: Does either side desire any further inquiry with respect to  
21 the more than 75 classified cables?

22 TC[MAJ FEIN]: No, Your Honor.

23 CDC[MR.COOMBS]: No, Your Honor.



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1 MJ: All right. Did you say something about these files were  
2 corrupted and they had to be sent again or something of that nature?

3 ACC: The later ones -- although the ones that were available up  
4 to February of 2010 and then March and April were corrupted, Your  
5 Honor.

6 MJ: Okay. Well, what happened -- I thought you testified  
7 earlier that, for Specification 13 of Charge II, you sent them in  
8 April?

9 ACC: I did send them in April, but that was the ones up to  
10 February, Your Honor.

11 MJ: Oh, okay. So you sent the ones up in February that were  
12 not corrupted in April?

13 ACC: Yes, Your Honor, and then ----

14 MJ: So, the more than 75 classified charged documents, were  
15 they among the corrupted or the not corrupted?

16 ACC: The not corrupted, Your Honor.

17 MJ: So they -- you sent them and they made it?

18 ACC: Yes, Your Honor.

19 MJ: Okay.

20 ACC: And then I made an attempt to add two more months and that  
21 never happened, Your Honor.

22 MJ: Okay. So, you actually did send them more than 75  
23 classified cables to WikiLeaks?

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1 ACC: Correct, Your Honor.

2 MJ: Does either side believe any further inquiry is required  
3 with respect to Specifications 13 and 14 of Charge II?

4 TC[MAJ FEIN]: No, Your Honor.

5 CDC[MR.COOMBS]: No, Your Honor.

6 MJ: All right. PFC Manning, then, do you admit that, at or  
7 near Contingency Operating Station Hammer, Iraq, for Specification  
8 13, between on or about 28 March and on or about 4 May 2010, that you  
9 obtained information that has been determined by the United States  
10 government, by executive order or statute, to require protection  
11 against unauthorized disclosure for reasons of national defense or  
12 foreign relations, to wit, for Specification 13: more than 75 United  
13 States Department of State cables? And do you admit that, at or near  
14 Contingency Operations Station Hammer, for Specification 14, between  
15 on or about 14 February 2010 and 15 February 2010, you knowingly  
16 accessed a computer on a Secret Internet Protocol Router Network and  
17 that you obtained information that has been determined by the United  
18 States government, by executive order or statute, to require  
19 protection against unauthorized disclosure for reasons of national  
20 defense or foreign relations, to wit, for Specification 14: a  
21 classified Department of State cable titled, "Reykjavik 13"?

22 ACC: Yes, Your Honor.

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1 MJ: All right. For this element, too, were you talking about -  
2 - the information has been determined by the United States  
3 government, by executive order or statute, to require protection  
4 against unauthorized disclosure for reasons of national defense or  
5 foreign relations, does that mean classification?

6 ACC: Yes, Your Honor.

7 MJ: Okay. So, if a document is classified, does that fall into  
8 that category, here?

9 ACC: It does, Your Honor.

10 MJ: Do the parties agree?

11 CDC[MR.COOMBS]: Yes, Your Honor.

12 TC[MAJ FEIN]: Yes, Your Honor.

13 MJ: Okay. And do you admit, then, for Specifications 13 and 14  
14 of Charge II that you communicated, delivered, transmitted, or caused  
15 to be communicated, delivered, or transmitted, the information to a  
16 person not entitled to receive it?

17 ACC: Yes, Your Honor.

18 MJ: Do you admit that you acted willfully?

19 ACC: Yes, Your Honor.

20 MJ: And do you admit that under the circumstances, your conduct  
21 was to the prejudice of good order and discipline in the armed forces  
22 or of a nature to bring discredit upon the armed forces?

23 ACC: Yes, Your Honor.

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1 MJ: All right. We have one final specification to go over and  
2 that's Specification 5 of Charge III. Are the parties ready to  
3 proceed? PFC Manning, are you ready to proceed or do you want to  
4 have a brief recess before we go into that one?

5 ACC: Continue, Your Honor.

6 MJ: All right. Now, do you have a copy -- I've asked your  
7 counsel to make a copy for you of the first page of Army Regulation  
8 380-5, dated 29 September 2000, as well as Paragraph 7-4, the  
9 paragraph you're charged with violating in that regulation and  
10 Paragraph 1-21, entitled "Sanctions." Do you have a copy of all  
11 three of those before you?

12 ACC: Yes, Your Honor.

13 MJ: Let's talk about Specification 5 of Charge III. In  
14 Specification 5 of Charge III, you're charged with the offense of  
15 violating a lawful general order in violation of Article 92, UCMJ.  
16 Your defense counsel has entered pleas by exceptions and  
17 substitutions for this offense as well. By pleading guilty -- but  
18 you're pleading guilty to the same offense, just different dates, I  
19 believe, is the exceptions and substitutions.

20 By pleading guilty to this offense, you're admitting that  
21 the following elements accurately describe what you did:

1           One, there was in existence a certain lawful general  
2 regulation in the following terms: Paragraph 7-4, Army Regulation  
3 380-5, dated 29 September 2000.

4           Two, that you had a duty to obey that regulation.

5           And three, that at or near Contingency Operating Station  
6 Hammer, Iraq, between on or about 8 January 2010 and on or about 10  
7 May 2010, you violated this lawful general regulation by wrongfully  
8 storing classified information.

9           Okay, give me one minute, here.

10          CDC[MR.COOMBS]: Ma'am, the Court had stated 10 May for the end  
11 date and it's 27 May

12          MJ: 27 May -- that's what -- I thought I saw that. Okay. So,  
13 let's go -- let's just change that last element, here. So, that  
14 would be that, at or near -- the element three would be that, at or  
15 near Contingency Operations Station Hammer, Iraq, between on or about  
16 8 January 2010 and on or about 27 May 2010, you violated this lawful  
17 general regulation by wrongfully storing information.

18           And general regulations are those regulations which are  
19 generally applicable to an armed force in which are properly  
20 published by the secretary of a military -- by a military department.  
21 General regulations also include regulations which are generally  
22 applicable to the command of the officer issuing them throughout the  
23 command or a particular subdivision in which are issued by a general

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1 officer having general court-martial jurisdiction or a general or  
2 flag officer in command or a commander superior to one of those.

3 When a general regulation prohibits certain acts, except  
4 under certain conditions, then your conduct must not have come in --  
5 fallen within one of the exceptions to regulation. And, once again,  
6 you must have had a duty to obey that regulation.

7 To do something wrongfully means to do something without  
8 legal justification or excuse.

9 Do you understand the elements and definitions as I read  
10 them to you?

11 ACC: Yes, Your Honor.

12 MJ: Do you have any questions about them?

13 ACC: Yes, Your Honor, or no, Your Honor, I don't have any.

14 MJ: Do understand that your plea of guilty admits that these  
15 elements accurately describe what you did?

16 ACC: Yes, Your Honor.

17 MJ: Do you believe it admits that the elements and definitions,  
18 taken together, correctly describe what you did?

19 ACC: Yes, ma'am.

20 MJ: All right. Now, let's -- were you still at Contingency --  
21 were you still deployed at Contingency Operation Base Hammer, Iraq on  
22 the dates that you -- between 8 January 2010 and 27 May 2010?

23 ACC: Yes, Your Honor.

1 MJ: Okay. Now, you have a copy -- we talked about earlier of  
2 the front page of the Army Regulation 380-5?

3 ACC: I do, Your Honor.

4 MJ: Was the title of that regulation?

5 ACC: Department of Army Information Security Program.

6 MJ: And who is it issued by? It's on the bottom.

7 ACC: Headquarters, Department of the Army.

8 MJ: Do you believe that this is a lawful general regulation?

9 ACC: Yes, Your Honor.

10 MJ: All right. Next, at Paragraph 21 -- 1-21, where it says,  
11 "Sanctions" ----

12 ACC: Just, Your Honor.

13 MJ: ---- do you believe that this -- a regulation has to be --  
14 sometimes regulations provide guidance and sometimes they're  
15 punitive. Do you believe that AR 380-5 is a punitive regulation?

16 ACC: Yes, Your Honor.

17 MJ: And what's this regulation meant to govern?

18 ACC: It governs information security, Your Honor.

19 MJ: All right. Let's look at -- it's Chapter 7 you also have a  
20 copy of, it talks about storage and physical security standards and  
21 part of that, in Section 2, is Paragraph 7-4 and that's the paragraph  
22 that you are accused of violating. Can you tell me how you violated  
23 that paragraph?

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1 ACC: Yes, Your Honor, by not abiding by 380-5 -- in this  
2 paragraph -- in my -- in wrongfully storing and transferring  
3 classified information -- properly classified information throughout  
4 my period in Iraq.

5 MJ: So, are you talking about -- is this information targeting  
6 -- we spent the afternoon talking about how you transferred  
7 everything from the Reykjavik cable all the way through and then  
8 ending with the Department of State cables in each of the  
9 specifications that we just discussed.

10 ACC: Yes, Your Honor.

11 MJ: So, when you were telling me about taking the --  
12 downloading the information from your computer to your workstation  
13 and then to your CD and then leaving the SCIF and uploading that to  
14 your personal computer and sending it out, basically, over the  
15 unsecured Internet, is that the conduct that you're talking to me  
16 about that violates this regulation?

17 ACC: Yes, Your Honor.

18 MJ: Are you allowed, under this regulation, to take classified  
19 information from a SIPRNET computer and take it to your home computer  
20 and upload it?

21 ACC: No, Your Honor.



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1 MJ: Are you authorized to send classified information that  
2 you've taken and downloaded on a CD and put on your personal computer  
3 to send that over the general Internet waves?

4 ACC: No, Your Honor.

5 MJ: All right. When you do that, does this violate this  
6 Paragraph 7-4 of Army Regulation 380-5?

7 ACC: Yes, Your Honor.

8 MJ: All right. Is it the parties' theory that this is -- in  
9 this specification, that it's violated in some other fashion?

10 TC[MAJ FEIN]: No, Your Honor.

11 CDC[MR.COOMBS]: No, Your Honor.

12 MJ: All right. Do the parties believe -- and this was done  
13 between the dates we talked about, here, between 8 January 2010 and  
14 27 May 2010?

15 ACC: Yes, Your Honor.

16 MJ: Okay. Does either side believe any further inquiry is  
17 required?

18 ATC[CPT MORROW]: Your Honor, I may have missed this, but did  
19 you explain divers occasions to the accused?

20 MJ: Do I have divers occasions on here?

21 ATC[CPT MORROW]: It is in the specification.

22 MJ: No, I didn't even read it in the element, thank you.

1 All right, the written statement, I believe I have also  
2 from you all, doesn't have the words "divers occasions" in it with  
3 the elements. So, PFC Manning, when I'm going over -- this is the  
4 attachment to the statement that you gave me. So, I just want to  
5 make sure you understand what divers occasions means and that --  
6 since you didn't except those words out, what you are pleading guilty  
7 to. You're charged with -- on divers -- your -- violating this  
8 regulation on divers occasions between the dates we just discussed  
9 which were 8 January 2010 and 27 May 2010. Now, "divers occasions"  
10 means two or more times. So, did you violate this regulation,  
11 between those dates, two or more times?

12 ACC: Yes, Your Honor.

13 MJ: Okay. Because we discussed -- basically -- does your  
14 conduct in Specifications 2, 3, 5, 7, 9, 10, 13, 14, and 15, all of  
15 those specifications we just discussed involve you taking information  
16 off of the SIPRNET, taking it out of the SIPR, and loading it either  
17 onto your personal computer or your camera and sending those to  
18 WikiLeaks. So, the loading of the information in those  
19 specifications on your personal computer, is that in violation of AR  
20 380-5, Paragraph 7-4?

21 ACC: Yes, Your Honor.

22 MJ: Okay. And you did that more than two times, right?

23 ACC: Yes, Your Honor.

1 MJ: Okay. Same thing for sending the information from your  
2 personal computer to, over the unsecure Internet, to WikiLeaks, you  
3 did that more than two times, too, is that right?

4 ACC: Yes, Your Honor.

5 MJ: Okay. Does either side believe any further inquiry is  
6 required?

7 ATC[CPT MORROW]: No, Your Honor.

8 CDC[MR.COOMBS]: No, Your Honor.

9 MJ: All right. PFC Manning, do you admit that there was in  
10 existence a lawful general regulation in the following terms:  
11 Paragraph 7-4, Army Regulation 380-5, dated 29 September 2000?

12 ACC: Yes, Your Honor.

13 MJ: Do you admit that you had a duty to obey that regulation?

14 ACC: Yes, Your Honor.

15 MJ: And do you admit that, on divers occasions, between on or  
16 about 8 January 2010 and on or about 27 May 2010, at or near  
17 Contingency Operating Station Hammer, you violated this lawful  
18 general regulation by wrongfully storing classified information?

19 ACC: Yes, Your Honor.

20 MJ: Does either side believe any further inquiry is required as  
21 to any of this?

22 CDC[MR.COOMBS]: No, Your Honor.

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1 TC[MAJ FEIN]: Your Honor, may we ask for a short recess before  
2 you continue and before we answer that question?

3 MJ: Certainly. How long would you like?

4 TC[MAJ FEIN]: 15 minutes, Your Honor.

5 MJ: All right. If we start at 5 after, will 13 minutes give  
6 you enough time to do what you need to do?

7 TC[MAJ FEIN]: It will, ma'am.

8 MJ: All right. Court is in recess until 1705 or 5:05 PM.

9 [The Article 39(a) session recessed at 1655, 28 February 2013.]

10 [The Article 39(a) session was called to order at 1708, 28 February  
11 2013.]

12 MJ: This Article 39(a) session is called order. Let the record  
13 reflect all parties present when the court recessed are again present  
14 in court.

15 PFC Manning, let me just ask you one more question on that  
16 last -- your plea of guilty to Specification 5 of Charge III. Did  
17 you have a duty to obey that regulation?

18 ACC: Yes, Your Honor.

19 MJ: Government, any further inquiry?

20 TC[MAJ FEIN]: Yes, ma'am, the first, really, is a question for  
21 the Court, Your Honor. Earlier the Court asked -- or made a  
22 statement about the dates and how the government would have to prove  
23 the greater date range versus the inclusive date range, but most of

1 the specifications are pled in between two dates. So, I guess, the  
2 government was unclear what the Court actually meant after looking  
3 back at it.

4 MJ: Well, if they're pled between two dates, that's fine.  
5 Let's address that issue when it's ripe.

6 TC[MAJ FEIN]: Yes, ma'am.

7 MJ: If the evidence shows that it's -- if they're two broad  
8 dates and the evidence shows it's two narrow dates, the Court could  
9 find, by exceptions and substitutions, the narrower dates. Or, if  
10 they're different dates -- I don't know all of the -- I haven't  
11 looked at this. Are all of the lesser included offenses within the  
12 dates charged by the government -- in the exceptions and  
13 substitutions?

14 TC[MAJ FEIN]: Yes, ma'am, that's why -- just making sure that  
15 the Private First Class Manning understands that they're all  
16 inclusive.

17 CDC[MR.COOMBS]: The lesser included falls within their date  
18 range, so the government's date ranges are wider than -- and what we  
19 gave them were specific dates.

20 MJ: All right. So, I mean, PFC Manning, that's going to be a  
21 fact-specific determination, you know, for the fact-finder at the  
22 time. You can plead guilty with a subset within a larger subset, but  
23 your subset still is within a larger subset but it would be -- you

1 know, the fact-finder could say, "Well, I just--truncate it and make  
2 it on the evidence that has been presented." So, do you have any  
3 questions about that?

4 ACC: No, Your Honor. I am good.

5 MJ: Do the parties agree with my interpretation of this? It's  
6 really a fact-finding decision; it could be excepted and substituted  
7 or left within the broader date range depending on how the facts come  
8 out.

9 TC[MAJ FEIN]: Yes, ma'am.

10 CDC[MR.COOMBS]: Yes, Your Honor.

11 MJ: Any further inquiry other than that?

12 TC[MAJ FEIN]: Yes, ma'am, I defer to co-counsel.

13 ATC[CPT OVERGAARD]: Ma'am, on Specification 13, you had  
14 explored whether or not the cables were the same when they were  
15 transmitted as they were when they were downloaded from the SIPRNET  
16 and the government just wonders if the Court wants to explore that  
17 with Specifications 5 and 7 as well because in Paragraph 6(t) on Page  
18 16, there's reference to the possibility that the CIDNE-I and CIDNE-A  
19 transmission had been sanitized between the download and the  
20 transmission.

21 MJ: All right. Well, PFC Manning, let's talk about -- in all  
22 of the specifications we talked about, let's look at it specification

1 by specification. In Specification 2 of Charge II, was the video  
2 altered in any way when you sent it?

3 ACC: No, Your Honor.

4 MJ: So, you took what you got off the SIPRNET and that's what  
5 you sent?

6 ACC: Yes, Your Honor.

7 MJ: Specification 3, the two documents in Specification 3, the  
8 classified memorandum, was that changed, in anyway, between the time  
9 that you got it from SIPRNET and the time you sent it?

10 ACC: No, Your Honor.

11 MJ: Specification 5, these are the two that the government  
12 wants me to explore, Specifications 5 and 7; those are the two  
13 databases -- the more than 20 documents. Did you change those  
14 between the time you took them off the SIPRNET and the time you sent  
15 them to WikiLeaks?

16 ACC: Yes, Your Honor, I removed some extraneous information that  
17 I did not feel needed to be in the version that I sent to whoever I  
18 was going to send it to.

19 MJ: When you talked about "you removed extraneous information,"  
20 what extraneous information?

21 ACC: Specifically, IP addresses, usernames, a lot of other  
22 information attached to the records, Your Honor.

1 MJ: Would that -- the information that you removed, would that  
2 have changed their status from classified to unclassified?

3 ACC: The -- I believe that the extraneous information that was  
4 on there was classified -- that's my -- that was my impression and --  
5 that, I removed. So, I removed some classified information without  
6 changing the other information, Your Honor.

7 MJ: So, if the extraneous information you removed was  
8 classified, were the cables -- the declassified cables that are  
9 charged here that you sent ----

10 ACC: SIGACTs, Your Honor.

11 MJ: ----- or the SIGACTs, I'm sorry. Were they -- did they  
12 remain classified because you took some of the classified information  
13 out?

14 ACC: I did not remove the field -- the classification field, so  
15 I don't know what status they are in because a lot of the documents  
16 don't have classification markings separately.

17 MJ: Okay. Now, Government, the charged documents that we went  
18 over at the beginning of the trial when PFC Manning was sitting over  
19 here at the panel box, were they the charged documents as downloaded  
20 from the SIPRNET or were they the charged documents as released?

21 TC[MAJ FEIN]: Your Honor, the charged documents that were  
22 printed and put in the binder in Appellate Exhibit 501 were the exact



1 documents printed from the SD card found at Private First Class  
2 Manning's aunt's house.

3 MJ: Okay.

4 TC[MAJ FEIN]: So, as released.

5 MJ: The charged documents on Specifications 5 and 7 that we  
6 looked through, were those -- did they appear, when you viewed them,  
7 in the same form as they were on the SD card in your aunt's camera?

8 ACC: Yes, Your Honor.

9 MJ: Now, was that before or after they had been changed and the  
10 extraneous information removed?

11 ACC: That's after, Your Honor.

12 MJ: So, the charged documents, as they appear in that binder  
13 that you looked at, are in the form that you had already changed and  
14 the form that was sent to WikiLeaks?

15 ACC: Yes, Your Honor, it did.

16 MJ: Were those documents, as you reviewed them in that binder,  
17 are they classified?

18 ACC: Well, I would assume so because -- yes, Your Honor.

19 MJ: Well, you're admitting, here, to a criminal offense that --

20 --

21 ACC: Yes.

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1 MJ: ---- you are transmitting classified documents so why don't  
2 you take a couple of moments and talk to your counsel? If they're  
3 not classified, we may need to have another ----

4 ACC: They are classified, Your Honor.

5 MJ: ---- conversation.

6 ACC: The original classification authority said that they're  
7 classified, yes, Your Honor.

8 MJ: And you're sure about that?

9 ACC: Yes, Your Honor.

10 MJ: Okay. So, at the time you sent them, they were classified?

11 ACC: Yes, Your Honor.

12 MJ: All right. And you're sure about that?

13 ACC: Yes, Your Honor.

14 MJ: Okay. Does other side believe any further inquiry is  
15 required?

16 TC[MAJ FEIN]: No, Your Honor.

17 CDC[MR.COOMBS]: No, Your Honor.

18 MJ: Trial Counsel, what did you calculate to be the maximum  
19 punishment authorized in this case based solely on PFC Manning's  
20 plea?

21 TC[MAJ FEIN]: Your Honor, based solely on Private First Class  
22 Manning's plea, the maximum punishment is to forfeit all pay and

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1 allowances, to be reduced to Private (E1), to be confined for 20  
2 years, and to be dishonorably discharged from the service.

3 MJ: Defense Counsel, do you agree?

4 CDC[MR.COOMBS]: Yes, Your Honor.

5 MJ: All right. PFC Manning, do you understand that, based on  
6 your plea, alone, this court could sentence you to be reduced to the  
7 grade of E1, to forfeit all pay and allowances, to be confined for up  
8 to 20 years, and to be dishonorably discharged from the service?

9 ACC: Yes, ma'am.

10 MJ: Is the government interested in a fine in this case?

11 TC[MAJ FEIN]: Yes, Your Honor.

12 MJ: And a potential fine also. Do you have any question as to  
13 the maximum sentence that could be imposed as a result of your guilty  
14 plea?

15 ACC: No, Your Honor.

16 MJ: And, Trial Counsel, is there any pre-trial agreement in  
17 this case?

18 TC[MAJ FEIN]: No, Your Honor.

19 MJ: Even though, Counsel, there are no formal, written pre-  
20 trial agreements, are there any unwritten agreements or  
21 understandings in this case?

22 CDC[MR.COOMBS]: No, Your Honor.

23 TC[MAJ FEIN]: No, Your Honor.

1 MJ: PFC Manning, has anybody made any agreement with you or  
2 promise to you in order to get you to plead guilty?

3 ACC: No, Your Honor.

4 MJ: Mr. Coombs and the rest of the defense team, have you had  
5 enough time and opportunity to discuss this case with PFC Manning?

6 CDC[MR.COOMBS]: Yes, Your Honor.

7 ADC [MAJ HURLEY]: Yes, ma'am.

8 ADC [CPT TOOMAN]: Yes, Your Honor.

9 MJ: All right. So, I've asked all three of you that; from now  
10 on, I'll just -- Mr. Coombs if you can answer as lead counsel, then?

11 CDC[MR.COOMBS]: Okay.

12 MJ: PFC Manning, have you, in fact, consulted fully with your  
13 defense team and received the full benefit of their advice?

14 ACC: Yes, Your Honor.

15 MJ: Are you satisfied that your defense team's advice is in  
16 your best interest?

17 ACC: Yes, Your Honor.

18 MJ: Are you satisfied with your defense counsel?

19 ACC: Yes, Your Honor.

20 MJ: Are you pleading guilty voluntarily and of your own free  
21 will?

22 ACC: Yes, ma'am.

1 MJ: Has anyone made any threat or in any way tried to force you  
2 to plead guilty?

3 ACC: No, Your Honor.

4 MJ: Do you have any questions as to the meaning and effect of  
5 your guilty plea?

6 ACC: No, Your Honor.

7 MJ: Do you fully understand the meaning and effect of your  
8 guilty plea?

9 ACC: Yes, Your Honor.

10 MJ: Do you understand that, even though you believe you are  
11 guilty, you have a legal right to plead not guilty in place upon the  
12 government the burden of proving your guilt beyond a reasonable  
13 doubt?

14 ACC: Yes, Your Honor.

15 MJ: Take a moment now consult, once again, with your defense  
16 team and tell me if you still want to plead guilty.

17 **[The accused did as directed.]**

18 MJ: All right. Do you still want to plead guilty?

19 ACC: Yes, Your Honor.

20 MJ: All right. PFC Manning, I find your plea of guilty is made  
21 voluntarily and with full knowledge of its meaning and effect. I  
22 further find you have knowingly, intelligently, and consciously  
23 waived your rights against self-incrimination, to a trial of the

1 facts by a court-martial, and to be confronted by the witnesses  
2 against you. Accordingly, your plea of guilty is provident and is  
3 accepted. However, I advise you may request withdraw your plea at  
4 any time before sentence is announced and, if you have a good reason  
5 for your request, I will grant it.

6 Now, is the government going forward on the offenses to  
7 which the accused has plead not guilty?

8 TC[MAJ FEIN]: Ma'am, given the seriousness of Private First  
9 Class Manning's charged conduct, the United States does intend to go  
10 forward with all the charges as originally charged.

11 MJ: All right, then, in that case the Court is not going to  
12 make findings with respect to the guilty pleas at this point. PFC  
13 Manning, as we discussed earlier, what that means is the government  
14 is going to go forward with the charges as charged. Nothing you've  
15 said today can be used by the government when they prove the case,  
16 however, the elements that you've established in your plea, the  
17 government does not have to present any proof of those. Your plea  
18 has established those elements so we just have the remaining elements  
19 that are left, we've got the outstanding issue that the parties are  
20 briefing with the 793(e) offenses as to the tangible/intangible  
21 element that we discussed earlier, whether it's only intangible that  
22 requires the reason to believe additional elements or whether both  
23 do. So, that's -- will be decided at the next Article 39(a) session.

\* \* \*

# **EXHIBIT F**

**FILED UNDER SEAL**

## UNCLASSIFIED

Unmarked redactions were present when the Army received this document. 29 January 2013

MEMORANDUM THRU Civilian Defense Counsel, 11 South Angell Street  
#317, Providence, RI 02906  
Military Defense Counsel, U.S. Army Trial Defense Service  
(USATDS), Fort Belvoir, VA 22060

FOR Military Judge, U.S. Army First Judicial Circuit, Fort  
Meade, MD 20755  
Trial Counsel, Joint Force Headquarters - National Capital  
Region/Military District of Washington (JFHQ-NCR/MDW), 103 3rd  
Avenue SW, Fort McNair, DC 20319-5058

SUBJECT: Statement in Support of Providence Inquiry -- U.S. v.  
Private First Class (PFC) Bradley E. Manning (U)

1. (U) The following facts are provided in support of the  
providence inquiry for my court-martial, United States v. PFC  
Bradley E. Manning.

2. (U) Personal Facts.

a. (U) I am a twenty-five (25) year-old Private First Class  
in the United States Army, currently assigned to Headquarters  
and Headquarters Company (HHC), U.S. Army Garrison (USAG), Joint  
Base Myer-Henderson Hall, Fort Myer, Virginia. Prior to this  
assignment, I was assigned to HHC, 2nd Brigade Combat Team, 10th  
Mountain Division, Fort Drum, New York. My Primary Military  
Occupational Specialty (PMOS) is 35F, "Intelligence Analyst."

b. (U) I entered Active Duty status on 2 October 2007. I  
enlisted with the hope of obtaining both real-world experience  
and earning benefits under the GI Bill for college  
opportunities.

3. (U) Facts Regarding My position as an Intelligence Analyst.

a. (U) In order to enlist in the Army, I took the standard  
Armed Services Aptitude Battery (ASVAB). My score on this  
battery was high enough for me to qualify for any enlisted MOS  
position. My recruiter informed me that I should select an MOS  
that complimented my interests outside the military. In  
response, I told him I was interested in geopolitical matters  
and information technology. He suggested I consider becoming an  
intelligence analyst.

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b. (U) After researching the Intelligence Analyst position, I agreed that this would be a good fit for me. In particular, I enjoyed the fact that an analyst would use information derived from a variety of sources to create work products that informed the command on its available choices for determining the best courses of action (COAs). Although the MOS required a working knowledge of computers, it primarily required me to consider how raw information can be combined with other available intelligence sources in order to create products that assisted the command in its situational awareness (SA). I assessed that my natural interest in geopolitical affairs and my computer skills would make me an excellent Intelligence Analyst.

c. (U) After enlisting, I reported to the Fort Meade Military Entrance Processing Station (MEPS) on 01 October 2007. I then traveled to, and reported at Fort Leonard Wood on 02 October 2007 to begin Basic Combat Training (BCT).

d. (U) Once at Fort Leonard Wood, I quickly realized that I was neither physically nor mentally prepared for the requirements of BCT. My BCT experience lasted six (6) months instead of the normal ten (10) weeks. Due to medical issues, I was placed in a hold status. A physical examination indicated I sustained injuries to my right shoulder and left foot. Due to these injuries I was unable to continue BCT.

e. (U) During medical hold, I was informed that I may be out-processed from the Army. However, I resisted being "chaptered" because I felt I could overcome my medical issues and continue to serve.

f. On 20 January 2008, I returned to BCT. This time I was better prepared, and I completed training on 2 April 2008. I then reported for the MOS-specific Advanced Individual Training (AIT) on 7 April 2008.

g. (U) AIT was an enjoyable experience for me. Unlike BCT, where I felt different than the other Soldiers, I fit in and did well. I preferred the mental challenges of reviewing a large amount of information from various sources and trying to create useful, or "actionable," products. I especially enjoyed the practice of analysis through the use of computer applications and methods I was familiar with.

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h. (U) I graduated from AIT on 16 August 2008 and reported to my first duty station, Fort Drum, New York on 28 August 2008. As an analyst, Significant Activities (SIGACTs) were a frequent source of information for me to use in creating work products. I started working extensively with SIGACTs early after my arrival at Fort Drum. My computer background allowed me to use the tools organic to the Distributed Common Ground System--Army (DCGS-A) computers and create polished work products for the 2nd Brigade Combat Team (2BCT) chain of command.

i. (U) The non-commissioned-officer-in-charge (NCOIC) of the S2 section, Master Sergeant (MSG) David P. Adkins recognized my skills and potential, and tasked me to work on a tool abandoned by a previously assigned analyst, the "Incident Tracker." The Incident Tracker was viewed as a backup to the Combined Information Data Network Exchange (CIDNE) and a unit historical reference tool.

j. (U) In the months preceding my upcoming deployment, I worked on creating a new version of the incident tracker, and used SIGACTs to populate it. The SIGACTs I used were from Afghanistan, because at the time our unit was scheduled to deploy to the Logar and Wardak provinces Afghanistan. Later, our unit was reassigned to deploy to eastern Baghdad, Iraq. At that point, I removed the Afghanistan SIGACTs and switched to Iraq SIGACTs.

k. (U) As an analyst, I view the SIGACTs as historical data. I believe this view is shared by other all-source analysts as well. SIGACTs give a first-look impression of a specific or isolated event. This event can be an Improvised Explosive Device (IED) attack, a Small Arms Fire (SAF) engagement with a hostile force, or any other event a specific unit documented and reported in real-time. In my perspective, the information contained within a single SIGACT, or group of SIGACTs is not very sensitive. The events encapsulated within most SIGACTs involve either enemy engagements or casualties. Most of this information is publicly reported by the Public Affairs Office (PAO), embedded media pools, or host-nation (HN) media.

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1. (U) As I started working with SIGACTs, I felt they were similar to a daily journal or log that a person may keep. They capture what happens on a particular day and time. They are created immediately after the event and are potentially updated over a period of hours until a final version is published on CIDNE.

m. (U) Each unit has its own standard operating procedure (SOP) for reporting and recording SIGACTs. The SOP may differ between reporting in a particular deployment, and reporting in garrison. In garrison, a SIGACT normally involves personnel issues, such as a Driving Under-the-Influence (DUI) incident, or an automobile accident involving the death or serious injury of a Soldier. The report starts at the company level, and goes up to the battalion, brigade, and even up to the division level. In a deployed environment, a unit may observe or participate in an event and the platoon leader or platoon sergeant may report the event as a SIGACT to the Company Headquarters through the radio transmission operator (RTO). The commander or RTO will then forward the report to the Battalion Battlecaptain or Battle Non-commissioned officer (NCO). Once the Battalion Battlecaptain or Battle NCO receives the report, they will either:

(1) Notify the Battalion Operations Officer (S3).

(2) Conduct an action, such as launching the Quick Reaction Force (QRF).

(3) Record the event and report further report it up the chain of command to the Brigade.

The recording of each event is done by radio or over the Secret Internet Protocol Router Network (SIPRNet), normally by an assigned Soldier, usually junior enlisted (E-4 and below).

n. (U) Once a SIGACT is reported, the SIGACT is further sent up the chain of command. At each level, additional information can either be added or corrected as needed. Normally, within 24 to 48 hours, the updating and reporting of a particular SIGACT is complete. Eventually, all reports and SIGACTs go through the chain of command from Brigade to Division, and Division to Corps. At Corps-level, the SIGACT is finalized and published.

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o. (U) The CIDNE system contains a database that is used by thousands of Department of Defense (DoD) personnel, including Soldiers, civilians, and contractor support. It was the U.S. Central Command (CENTCOM) reporting tool for operational reporting in Iraq and Afghanistan. Two separate but similar databases were maintained for each theater, "CIDNE-I" for Iraq and "CIDNE-A" for Afghanistan.

p. (U) Each database encompasses over a hundred types of reports and other historical information for access. They contain millions of vetted and finalized records including operational and intelligence reporting. CIDNE was created to collect and analyze battlespace data to provide daily operation and intelligence community (IC) reporting relevant to a commander's daily decision making process.

q. (U) The CIDNE-I and CIDNE-A databases contain reporting and analysis fields from multiple disciplines including:

- (1) Human Intelligence (HUMINT) reports.
- (2) Psychological Operations (PSYOP) reports.
- (3) Engagement reports.
- (4) Counter-Improvised Explosive Device (CIED) reports.
- (5) SIGACT reports.
- (6) Targeting reports.
- (7) Social-Cultural reports.
- (8) Civil Affairs reports.
- (9) Human Terrain reporting.

r. (U) As an intelligence analyst, I had unlimited access to the CIDNE-I and CIDNE-A databases and the information contained within them. Although each table within the databases is important, I primarily dealt with HUMINT reports, SIGACT reports, and CIED reports because these reports were used to create the work product I was required to publish as an analyst.

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s. (U) When working on an assignment, I looked anywhere and everywhere for information. As an all-source analyst, this was something that was expected. The DCGS-A systems had databases built in, and I utilized them on a daily basis. This includes the search tools available on DCGS-A systems on SIPRNet such as Query-Tree, and the DoD and Intelink search engines.

t. (U) Primarily, I utilized the CIDNE database, using the historical and HUMINT reporting to conduct my analysis and provide backup for my work product. I did statistical analysis on historical data, including SIGACTs, to back up analyses that were based on HUMINT reporting and produce charts, graphs, and tables. I also created maps and charts to conduct predictive analysis based on statistical trends. The SIGACT reporting provided a reference point for what occurred, and provided myself and other analysts with the information to conclude a possible outcome.

u. (U) Although SIGACT reporting is sensitive at the time of their creation, their sensitivity normally dissipates within 48 to 72 hours as the information is either publicly released, or the unit involved is no longer in the area and not in danger. It is my understanding that the SIGACT reports remain classified only because they are maintained within CIDNE, because it is only accessible on SIPRNet. Everything on CIDNE-I and CIDNE-A, to include SIGACT reporting was treated as classified information.

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4. (U) Facts Regarding Storage of SIGACT Reports.

a. (U) As part of my training at Fort Drum, I was instructed to ensure that I create back-ups of my work product. The need to create back-ups was particularly acute given the relative instability of and unreliability of the computer systems we used in the field and during deployment. These computer systems included both organic and theater-provided equipment (TPE) DCGS-A machines. The organic DCGS-A machines we brought with us into the field and on deployment were Dell M-90 laptops, and the TPE DCGS-A machines were Alienware brand laptops.

b. (U) The M-90 DCGS-A laptops were the preferred machine to use, as they were slightly faster, and had fewer problems with dust and temperature than the TPE Alienware laptops.

c. (U) I used several DCGS-A machines during the deployment due to various technical problems with the laptops. With these issues, several analysts lost information, but I never lost information due to the multiple back-ups I created.

d. (U) I attempted to back-up as much relevant information as possible. I would save the information so that I, or another analyst could quickly access it when a machine crashed, SIPRNet connectivity was down, or I forgot where data was stored. When backing-up information I would do one or all of the following things, based on my training:

(1) (U) Physical Back-up. I tried to keep physical backup copies of information on paper, so information could be grabbed quickly. Also, it was easier to brief from hard-copies research and HUMINT reports.

(2) (U) Local Drive Back-up. I tried to sort out information I deemed relevant and keep complete copies of the information on each of the computers I used in the Temporary Sensitive Compartmented Information Facility (T-SCIF), including my primary and secondary DCGS-A machines. This was stored under my user-profile on the "desktop."

(3) (U) Shared Drive Backup. Each analyst had access to a "T-Drive" shared across the SIPRNet. It allowed others to access information that was stored on it. S6 operated the "T-Drive."



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(4) (U) Compact Disc Re-Writable (CD-RW) Back-up. For larger datasets, I saved the information onto a re-writable disc, labeled the discs and stored them in the conference room of the T-SCIF.

e. (U) This redundancy permitted us the ability to not worry about information loss. If a system crashed, I could easily pull the information from my secondary computer, the "T-Drive," or one of the CD-RWs. If another analyst wanted access to my data, but I was unavailable, she could find my published products directory on the "T-Drive" or on the CD-RWs. I sorted all of my products and research by date, time, and group, and updated the information on each of the storage methods to ensure that the latest information was available to them.

f. (U) During the deployment, I had several of the DCGS-A machines crash on me. Whenever the computer crashed, I usually lost information, but the redundancy method ensured my ability to quickly restore old backup data, and add my current information to the machine when it was repaired or replaced.

g. (U) I stored the backup CD-RWs of larger datasets in the conference room of the T-SCIF or next to my workstation. I marked the CD-RWs based on the classification level and its content. Unclassified CD-RWs were only labeled with the content type, and not marked with classification markings.

h. (U) Early on in the deployment, I only saved and stored the SIGACTs that were within or near our Operational Environment (OE). Later, I thought it would be easier just to save all the SIGACTs onto a CD-RW. The process would not take very long to complete, and so I downloaded the SIGACTs from CIDNE-I onto a CD-RW. After finishing with CIDNE-I, I did the same with CIDNE-A. By downloading the CIDNE-I and CIDNE-A SIGACTs, I was able to retrieve the information whenever I needed it, and not rely upon the unreliable and slow SIPRNet connectivity needed to "pull" them. Instead, I could just find the CD-RW, and open the preloaded spreadsheet.

i. This process began in late-December 2009, and continued through early-January 2010. I could quickly export one month of the SIGACT data at a time, and download in the background as I did other tasks.

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j. (U) The process took approximately a week for each table. After downloading the SIGACT tables, I periodically updated them by pulling only the most recent SIGACTs, and simply copying them and "pasting" them into the database saved on CD-RW.

k. (U) I never hid the fact I had downloaded copies of both the SIGACT tables from CIDNE-I and CIDNE-A. They were stored on appropriately labeled and marked CD-RWs stored in the open. I views the saved copies of the CIDNE-I and CIDNE-A SIGACT tables as being for both my use, and the use of anyone within the S2 section during SIPRNet connectivity issues.

l. (U) In addition to the SIGACT table, I had a large repository of HUMINT reports and CIED reports downloaded from CIDNE-I. These contained reports that were relevant to the area in and around our OE, in eastern Baghdad and the Diyala province of Iraq.

m. (U) In order to compress the data to fit onto a CD-RW, I used a compression algorithm called "BZip2." The program used to compress the data is called "WinRAR." WinRAR is an application that is free and can easily be downloaded from the Internet via the Non-secure Internet Relay Protocol Network (NIPRNet). I downloaded WinRAR on NIPRNet and transferred it to the DCGS-A machine user profile "desktop" using a CD-RW.

n. (U) I did not try to hide the fact that I was downloading WinRAR onto my SIPRNet DCGS-A computer. With the assistance of the BZip2 compression algorithm using the WinRAR program, I was able to fit all the SIGACTs onto a single CD-RW, and the relevant HUMINT and CIED reports onto a separate CD-RW.

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5. (U) Facts regarding my knowledge of the WikiLeaks Organization (WLO)

a. (U) I first became vaguely aware of WLO during my AIT at Fort Huachuca, AZ. Though, I did not fully pay attention until WLO released purported Short Messaging System (SMS) messages from 11 September 2001 on 25 November 2009. At that time, references to the release and the WLO website showed up in my daily Google News open source search for information related to U.S. foreign policy.

b. (U) The stories were about how WLO published approximately 500,000 messages. I then reviewed the messages myself, and realized that the posted messages were very likely real given the sheer volume and detail of the content.

c. (U) After this, I began conducting research on WLO. I conducted searches on both NIPRNet and SIPRNet on WLO beginning in late November 2009 and early December 2009. At this time I also began to routinely monitor the WLO website.

d. (U) In response to one of my searches in December 2009, I found the U.S. Army Counter-Intelligence Center (USACIC) report on WLO. After reviewing the report, I believed that this report was the one that my AIT instructor referenced in early 2008. I may or may not have saved the report on my DCGS-A workstation. I know I reviewed the document on other occasions throughout early 2010, and saved it on both my primary and secondary laptops.

e. (U) After reviewing the report, I continued doing my research on WLO. However, based upon my open-source collection, I discovered information that contradicted the 2008 USACIC report, including information indicating that, similar to other press agencies, WLO seemed to be dedicated to exposing illegal activities and corruption. WLO received numerous awards and recognition for its reporting activities. Also, in reviewing the WLO website, I found information regarding U.S. military SOPs for Camp Delta at Guantanamo Bay, Cuba, and information on then-outdated Rules of Engagement (ROE) in Iraq for cross-border pursuits of former members of Saddam Hussein al-Tikriti's government.

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f. (U) After seeing the information available on the WLO website, I continued following it and collecting open-source information from it. During this time period, I followed several organizations and groups, including wire press agencies such as the Associated Press and Reuters and private intelligence agencies including Strategic Forecasting (STRATFOR). This practice was something I was trained to do during AIT, and was something that good analysts are expected to do.

g. (U) During the searches of WLO I found several pieces of information that I found useful in my work as an analyst. Specifically, I recall WLO publishing documents relating to weapons trafficking between two nations that affected my OE. I integrated this information into one or more of my work products.

h. (U) In addition to visiting the WLO website, I began following WLO using an Instant Relay Chat (IRC) client called "X-Chat" sometime in early January 2010. IRC is a protocol for real-time internet communications by messaging or conferencing, colloquially referred to as "chat rooms" or "chats." The IRC chat rooms are designed for group communication in discussion forums. Each IRC chat room is called a "channel." Similar to a television, you can "tune-in" to or "follow" a channel, so long as it is open and does not require an invite. Once joining a specific IRC conversation, other users in the conversation can see you have "joined" the room. On the Internet, there are millions of different IRC channels across several services. Channel topics span a range of topics, covering all kinds of interests and hobbies.

i. (U) The primary reason for following WLO on IRC was curiosity, particularly in regards to how and why they obtained the SMS messages referenced above. I believed collecting information on the WLO would assist me in this goal.

j. (U) Initially, I simply observed the IRC conversations. I wanted to know how the organization was structured, and how they obtained their data. The conversations I viewed were usually technical in nature, but sometimes switched to a lively debate on issues a particular individual felt strongly about.

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k. (U) Over a period of time, I became more involved in these discussions, especially when the conversation turned to geopolitical events and information topics, such as networking and encryption methods. Based on these observations I would describe the WLO conversation as almost academic in nature.

l. (U) In addition to the WLO conversations, I participated in numerous other IRC channels across at least three different networks. The other IRC channels I participated in normally dealt with technical topics including the Linux and Berkeley Security Distribution (BSD) Operating Systems (OS), networking, encryption algorithms and techniques, and other more political topics such as politics and queer rights.

m. (U) I normally engaged in multiple IRC conversations simultaneously, mostly publicly but often privately. The X-Chat client enabled me to manage these multiple conversations across different channels and servers. The screen for X-Chat was often busy, but experience enabled me to see when something was interesting. I would then select the conversation and either observe or participate.

n. (U) I really enjoyed the IRC conversations pertaining to and involving the WLO. However, at some point in late February or early March, the WLO IRC channel was no longer accessible. Instead, the regular participants of this channel switched to using a "Jabber" server. Jabber is another Internet communication tool, similar, but more sophisticated than IRC. The IRC and Jabber conversations allowed me to feel connected to others even when alone. They helped me pass the time and keep motivated throughout the deployment.

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6. (U) Facts regarding the unauthorized storage and disclosure of the SIGACTs.

a. (U) As indicated above, I created copies of the CIDNE-I and CIDNE-A SIGACTs tables as part of the process of backing up information. At the time I did so, I did not intend to use this information for any purpose other than for back-up. However, I later decided to release this information publicly. At that time I believed, and still believe, that these tables are two of the most significant documents of our time.

b. (U) On 8 January 2010, I collected the CD-RW I stored in the conference room of the T-SCIF and placed it into the cargo pocket of my Army Combat Uniform (ACU). At the end of my shift, I took the CD-RW out of the T-SCIF and brought it to my Containerized Housing Unit (CHU). I copied the data onto my personal laptop. Later, at the beginning of my shift, I returned the CD-RW back to the conference room of the T-SCIF.

c. (U) At the time I saved the SIGACTs to my laptop, I planned to take them with me on mid-tour leave, and decide what to do with them. At some point prior to mid-tour leave, I transferred the information from my computer to a Secured Digital memory card for my digital camera. The SD card for the camera also worked on my computer, and allowed me to store the SIGACT tables in a secure manner for transport.

d. (U) I began mid-tour leave on 23 January 2010, flying from Atlanta, GA to Reagan National Airport in Virginia. I arrived at the home of my aunt, Debra M. Van Alstyne, in Potomac, MD and quickly got into contact with my then-boyfriend Tyler R. Watkins. Tyler, then a student at Brandeis University in Waltham, MA, and I made plans for me to visit in the Boston, MA area. I was excited to see Tyler, and planned on talking to Tyler about where our relationship was going, and about my time in Iraq.

e. (U) However, when I arrived in the Boston area, Tyler and I seemed to have become distant. He did not seem very excited about my return from Iraq. I tried talking to him about our relationship, but he refused to make any plans. I also tried raising the topic of releasing the CIDNE-I and CIDNE-A SIGACT tables to the public.

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f. (U) I asked Tyler hypothetical questions about what he would do if he had documents that he thought the public needed access to. Tyler didn't really have a specific answer for me. He tried to answer the question and be supportive, but seemed confused by the question and its context. I then tried to be more specific, but he asked too many questions. Rather than try to explain my dilemma, I decided to just drop the conversation.

g. (U) After a few days in Waltham, I began feeling that I was overstaying my welcome, and I returned to Maryland. I spent the remainder of my time on leave in the Washington, DC area.

h. (U) During this time, a blizzard bombarded the mid-Atlantic, and I spent a significant period of time essentially stuck at my aunt's house in Maryland. I began to think about what I knew, and the information I still had in my possession. For me, the SIGACTs represented the on-the-ground reality of both the conflicts in Iraq and Afghanistan. I felt we were risking so much for people that seemed unwilling to cooperate with us, leading to frustration and hatred on both sides.

i. (U) I began to become depressed at the situation that we found ourselves increasingly mired in, year-after-year. The SIGACTs documented this in great detail, and provided context to what we were seeing on-the-ground. In attempting to conduct counter-terrorism (CT) and counter-insurgency (COIN) operations, we became obsessed with capturing and killing human targets on lists, on being suspicious of and avoiding cooperation with our host-nation partners, and ignoring the second and third order effects of accomplishing short-term goals and missions.

j. (U) I believed that if the general public, especially the American public, had access to the information contained within the CIDNE-I and CIDNE-A tables, this could spark a domestic debate on the role of the military and our foreign policy in general, as well as it related to Iraq and Afghanistan. I also believed a detailed analysis of the data over a long period of time, by different sectors of society, might cause society to re-evaluate the need, or even the desire to engage in CT and COIN operations that ignored the complex dynamics of the people living in the affected environment each day.

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k. (U) At my aunt's house, I debated about what I should do with the SIGACTs. In particular, whether I should hold on to them, or disclose them through a press agency. At this point, I decided it made sense to try and disclose the SIGACT tables to an American newspaper.

l. (U) I first called my local newspaper, the Washington Post and spoke with a woman saying she was a reporter. I asked her if the Washington Post would be interested in receiving information that would have enormous value to the American public. Although we spoke for about five minutes concerning the general nature of what I possessed, I do not believe she took me seriously. She informed me that the Washington Post would possibly be interested, but that such decisions are made only after seeing the information I was referring to, and after consideration by the senior editors.

m. (U) I then decided to contact the largest and most popular newspaper, the New York Times. I called the public editor number on the New York Times website. The phone rang and was answered by a machine. I went through the menu to the section for news tips and was routed to an answering machine. I left a message stating I had access to information about Iraq and Afghanistan that I believed was very important. However, despite leaving my Skype phone number and personal email address, I never received a reply from the New York Times.

n. (U) I also briefly considered dropping into the office for the political commentary blog Politico. However, the weather conditions during my leave hampered my efforts to travel.

o. (U) After these failed efforts, I ultimately decided to submit the materials to the WLO. I was not sure if WLO would actually publish the SIGACT tables, or, even if they did publish, I was concerned they might not be noticed by the American media. However, based on what I read about WLO through my research described above, this seemed to be the best medium for publishing this information to the world within my reach.

p. (U) At my aunt's house, I joined in on an IRC conversation and stated I had information that needed to be shared with the world. I wrote that the information would help document the true costs of the wars in Iraq and Afghanistan.

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q. (U) One of the individuals in the IRC asked me to describe the information. However, before I could describe the information, another individual pointed me to the link for the WLO website's online submission system.

r. (U) After ending my IRC connection, I considered my options one more time. Ultimately, I felt that the right thing to do was to release the SIGACTs. On 3 February 2010, I visited the WLO website on my computer, and clicked on the "Submit Documents" link. Next, I found the "submit your information online link," and elected to submit the SIGACTs via the TOR Onion Router (TOR) anonymizing network by a special link.

s. (U) TOR is a system intended to provide anonymity online. The software routes Internet traffic through network of servers and other TOR clients in order to conceal a user's location and identity. I was familiar with TOR and had it previously installed on my computer to anonymously monitor the social media websites of militia groups operating within central Iraq.

t. (U) I followed the prompts and attached the compressed data files of the CIDNE-I and CIDNE-A SIGACTs. I attached a text file I drafted while preparing to provide the documents to the Washington Post. It provided rough guidelines stating "it's already been sanitized of any source identifying information. You might need to sit on this information, perhaps 90-180 days, to figure out how best to release such a large amount of data, and to protect source. This is possibly one of the more significant documents of our time, removing the fog of war, and revealing the true nature of 21st century asymmetric warfare. Have a good day." After sending this, I left the SD card in a camera case at my aunt's house, in the event I needed it again in the future.

u. (U) I returned from mid-tour leave on 11 February 2010. Although the information had not yet been published by the WLO, I felt a sense of relief by them having it. I felt had accomplished something that allowed me to have a clear conscience based upon what I had seen, read about and knew were happening in both Iraq and Afghanistan every day.

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7. (U) Facts regarding the unauthorized storage and disclosure of "10REYKJAVIK13".

a. (U) I first became aware of diplomatic cables during my training period in AIT. I later learned about the Department of State (DOS) Net-Centric Diplomacy (NCD) portal from the 2-10BCT S2, Captain (CPT) Steven Lim. CPT Lim sent a section-wide email to the other analysts and officers in late December 2009 containing the SIPRNet link to the portal, along with instructions to look at the cables contained within and incorporate them into our work product. Shortly after this, I also noticed that diplomatic cables were being referred to in products from the Corps-level, U.S. Forces-Iraq (USF-I).

b. (U) Based on CPT Lim's direction to become familiar with its contents, I read virtually every published cable concerning Iraq. I also began scanning the database and reading other, random, cables that piqued my curiosity. It was around this time, in early-to-mid-January 2010 that I began searching the database for information on Iceland. I became interested in Iceland due to IRC conversations I viewed in the WLO channel discussed an issue called "Icesave." At this time, I was not very familiar with the topic, but it seemed to be a big issue for those participating in the conversation. This is when I decided to investigate, and conduct a few searches on Iceland to find out more.

c. (U) At the time, I did not find anything discussing the "Icesave" issue, either directly or indirectly. I then conducted an open source search for "Icesave." I then learned that Iceland was involved in a dispute with the United Kingdom (UK) and Netherlands concerning the financial collapse of one or more of Iceland's banks. According to open source reports, much of the public controversy involved the UK's use of "anti-terrorism legislation" against Iceland in order to freeze Icelandic assets for payment of the guarantees for UK depositors that lost money.

d. (U) Shortly after returning from mid-tour leave, I returned to the NCD to search for information on Iceland and "Icesave" as the topic had not abated on the WLO IRC channel. To my surprise, on 14 February 2010, I found the cable 10REYKJAVIK13 which referenced the "Icesave" issue directly.



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e. (U) The cable, published on 13 January 2010, was just over two pages in length. I read the cable, and quickly concluded that Iceland was essentially being bullied, diplomatically, by two larger European powers. It appeared to me that Iceland was out of viable solutions, and was now coming to the U.S. for assistance. Despite their quiet request for assistance, it did not appear we were going to do anything. From my perspective, it appeared we were not getting involved due to the lack of long term geopolitical benefit to do so.

f. (U) After digesting the contents of 10REYKJAVIK13, I debated on whether this was something I should send to the WLO. At this point, the WLO had not published nor acknowledged receipt of the CIDNE-I and CIDNE-A SIGACT tables. Despite not knowing if the SIGACTs were a priority for the WLO, I decided the cable was something that would be important, and I felt I might be able to right a wrong by having them publish this document. I burned the information onto a CD-RW on 15 February 2010, took it to my CHU and saved it onto my personal laptop.

g. (U) I navigated to the WLO website via a TOR connection like before, and uploaded the document via the secure form. Amazingly, the WLO published 10REYKJAVIK13 within hours, proving that the form worked and that they must have received the SIGACT tables.

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8. (U) Facts regarding the unauthorized storage and disclosure of the 12 July 2007 Air Weapons Team (AWT) video.

a. (U) During the mid-February 2010 timeframe, the 2-10BCF Targeting analyst, then-Specialist (SPC) Jihreah W. Showman and others discussed video Ms. Showman found on the "T-Drive." The video depicted a several individuals being engaged by an Air Weapons Team (AWT). At first, I did not consider the video very special, as I had viewed countless other "war-porn" type videos depicting combat. However, the recorded audio comments by the AWT crew and the second engagement in the video, of an unarmed bongo truck, troubled me.

b. (U) Ms. Showman and a few other analysts and officers in the T-SCIF commented on the video, and debated whether the crew violated the Rules of Engagement (ROE) in the second engagement. I shied away from this debate, and instead conducted some research on the event. I wanted to learn what happened, and whether there was any background to the events of the day the event occurred, 12 July 2007.

c. (U) Using Google, I searched for the event by its date and general location. I found several news accounts involving two Reuters employees who were killed during the AWT's engagement. Another story explained that Reuters requested for a copy of the video under the Freedom of Information Act (FOIA). Reuters wanted to view the video in order to be able to understand what happened, and improve their safety practices in combat zones. A spokesperson for Reuters was quoted saying that the video might help avoid a reoccurrence of the tragedy, and believed there was a compelling need for the immediate release of the video.

d. (U) Despite the submission of a FOIA request, the news account explained that CENTCOM replied to Reuters, stating that they could not give a timeframe for considering the FOIA request, and the video might no longer exist. Another story I found, written a year later, said that even though Reuters was still pursuing their request, they still did not receive a formal response or written determination in accordance with the FOIA.

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e. (U) The fact neither CENTCOM nor Multi-National Forces-Iraq (MCF-I) would not voluntarily release the video troubled me further. It was clear to me that the event happened because the AWT mistakenly identified the Reuters employees with a potential threat, and that the people in the bongo truck were merely attempting to assist the wounded. The people in the van were not a threat, but "good Samaritans."

f. (U) The most alarming aspect of the video to me, however, was the seemingly delightful bloodlust they appeared to have. They dehumanized the individuals they were engaging, and seemed to not value human life by referring to them as "dead bastards" and congratulating each other on the ability to kill in large numbers.

g. (U) At one point in the video, there is an individual on the ground attempting to crawl to safety. The individual is seriously wounded. Instead of calling for medical attention to the location, one of the AWT crew members verbally asked for the wounded person to pick up a weapon so he would have a reason to engage. For me, this seems similar to a child torturing ants with a magnifying glass.

h. (U) While saddened by the AWT crew's lack of concern about human life, I was disturbed by their response to the discovery of injured children at the scene. In the video, you can see the bongo truck driving up to assist the wounded individual. In response, the AWT crew assumes the individuals are a threat. They repeatedly request for authorization to fire on the bongo truck, and once granted, they engage the vehicle at least six times.

i. (U) Shortly after the second engagement, a mechanized infantry unit arrives at the scene. Within minutes, the AWT crew learns that children were in the van and, despite the injuries, the crew exhibits no remorse. Instead, they downplayed the significance of their actions saying "well, it's their fault for bringing their kids into a battle." The AWT crew members sound like they lack sympathy for the children or their parents. Later, in a particularly disturbing manner, the AWT crew verbalizes enjoyment at the sight of one of the ground vehicles driving over the bodies.

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j. (U) As I continued my research I found an article discussing a book "The Good Soldiers," written by Washington Post writer David Finkel. In Mr. Finkel's book, he writes about the AWT attack. As I read an online excerpt on "Google Books," I followed Mr. Finkel's account of the event, along with the video. I quickly realized Mr. Finkel was quoting, I feel in verbatim, the audio communications of the AWT crew. It's clear to me that Mr. Finkel obtained access and a copy of the video during his tenure as an embedded journalist.

k. (U) I was aghast at Mr. Finkel's portrayal of the incident. Reading his account, one would believe the engagement was somehow justified as "payback" for an earlier attack that lead to the death of a Soldier. Mr. Finkel ends his account of the engagement by discussing how a Soldier finds an individual still alive from the attack. He writes that the Soldier finds him, and sees him gesture with his two forefingers together, a common method in the Middle-East to communicate that they are friendly. However, instead of assisting him, the Soldier makes an obscene gesture, extending his middle finger. The individual apparently dies shortly thereafter. Reading this, I can only think of how this person was simply trying to help others, and then quickly finds he needs help as well. To make matters worse, in the last moments of his life, he continues to express his friendly intent, only to find himself receiving this well known gesture of "unfriendliness." For me, it's all a big mess, and I'm left wondering what these things mean, and how it all fits together. It burdens me emotionally.

l. (U) I saved a copy of the video on my workstation. I searched for, and found the ROE, ROW Annexes and a flowchart from the 2007 time period, as well as an unclassified ROE smart card from 2006. On 15 February 2010, I burned these documents onto a CD-RW, the same time I burned 10REYKJAVIK13 onto a CD-RW.

m. (U) At the time, I placed the video and ROE information onto my personal laptop in my CHU. I planned to keep this information there until I redeployed in Summer 2010. I planned on providing this to the Reuters office in London, UK to assist them in preventing events such as this in the future.

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n. (U) However, after the WLO published 10REYKJAVIK13, I altered my plans. I decided to provide the video and ROEs to them, so that Reuters would have this information before I redeployed from Iraq. On about 21 February 2010, as described above, I used the WLO submission form and uploaded the documents.

o. (U) The WLO released the video on 5 April 2010. After the release, I was concerned about the impact of the video, and how it would be perceived by the general public. I hoped the public would be as alarmed as me about the conduct of the AWT crew members. I wanted the American public to know that not everyone in Iraq and Afghanistan were targets that needed to be neutralized, but rather people who were struggling to live in the "pressure-cooker" environment of what we call asymmetric warfare.

p. (U) After the release, I was encouraged by the response in the media and general public who observed the AWT video. As I hoped, others were just as troubled, if not more troubled, than me by what they saw. At this time, I began seeing reports claiming that DoD and CENTCOM could not confirm the authenticity of the video. Additionally, one of my supervisors CPT Casey Fulton (nee Martin) stated her belief that the video was not authentic. In response, I decided to ensure that the authenticity of the video would not be questioned in the future. On 25 April 2010 I e-mailed CPT Fulton a link to the video that was on our "T-Drive" and to a copy of the video published by WLO from the Open Source Center (OSC) so she could compare them herself.

q. (U) Around this timeframe, I burned a second CD-RW containing the AWT video. In order to make it appear authentic, I placed a classification sticker and wrote "Reuters FOIA Req" on its face. I placed the CD-RW in one of my personal CD cases containing a set of "Starting out in Arabic." I planned on mailing the CD-RW to Reuters after I redeployed so they could have a copy that was unquestionably authentic.

r. (U) Almost immediately after submitting the AWT video and ROE documents, I notified the individuals in the WLO IRC to expect an important submission. I received a response from an individual going by the handle of "office."

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s. (U) At first our conversations were general in nature, but over time, as our conversations progressed, I assessed this individual to be an important part of the WLO. Due to the strict adherence of anonymity by the WLO, we never exchanged identifying information; however, I believed the individual was likely Mr. Julian Assange, Mr. Daniel Schmidt, or a proxy-representative of Mr. Assange and Schmidt.

t. (U) As the communications transferred from IRC to the Jabber client, I gave "office," and later "pressassociation" the name of "Nathaniel Frank" in my address book, after the author of a book I read in 2009.

u. (U) After a period of time, I developed what I felt was a friendly relationship with Nathaniel. Our mutual interest in information technology and politics made our conversations enjoyable. We engaged in conversation often, sometimes as long as an hour or more. I often looked forward to my discussions with Nathaniel after work.

v. (U) The anonymity that provided by TOR, the Jabber client, and WLO's policy allowed me to feel I could just be myself, free of the concerns of social labeling and perceptions that are often placed upon me in real life (IRL). IRL, I lacked close friendship with the people I worked with in my section, the S2 sections in subordinate battalions, and 2BCT as a whole. For instance, I lacked close ties with my roommate due to his discomfort regarding my perceived sexual orientation.

w. (U) Over the next few months, I stayed in frequent contact with Nathaniel. We conversed on nearly a daily basis, and I felt we were developing a friendship. The conversations covered many topics, and I enjoyed the ability to talk about pretty much anything, and not just the publications that the WLO was working on.

x. (U) In retrospect, I realize these dynamics were artificial, and were valued more by myself than Nathaniel. For me, these conversations represented an opportunity to escape from the immense pressures and anxiety that I experienced and built up throughout the deployment. It seemed that as I tried harder to "fit in" at work, the more I seemed to alienate my peers, and lose respect, trust and the support I needed.



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9. (U) Facts regarding the unauthorized storage and disclosure of documents relating to detainments by the Iraqi Federal Police (FP), the Detainee Assessment Briefs (DABs), and the USACIC report.

a. (U) On 27 February 2010, a report was received from a subordinate battalion. The report described an event in which the FP detained fifteen (15) individuals for printing "anti-Iraqi literature." By 2 March 2010, I received instructions from an S3 section officer in the 2-10BCT Tactical Operations Center (TOC) to investigate the matter, and figure out who these "bad guys" were, and how significant this event was for the FP.

b. (U) Over the course of my research, I found that none of the individuals had previous ties with anti-Iraqi actions or suspected terrorist or militia groups. A few hours later, I received several photos from the scene from the subordinate battalion. They were accidentally sent to an officer on a different team in the S2 section, and she forwarded them to me. These photos included pictures of the individuals, palettes of unprinted paper, seized copies of the final printed document, and a high-resolution photo of the printed material.

c. (U) I printed a blown up copy of the high-resolution photo, and laminated it for ease of storage and transfer. I then walked to the TOC and delivered the laminated copy to our category 2 interpreter. She reviewed the information and about a half-hour later delivered a rough written transcript in English to the S2 section.

d. (U) I read the transcript, and followed up with her, asking for her take on its contents. She said it was easy for her to transcribe verbatim since I blew up the photograph and laminated it. She said the general nature of the document was benign. The documentation, as I assessed as well, was merely a scholarly critique of the then-current Iraqi Prime Minister, Nouri al-Maliki. It detailed corruption within the cabinet of al-Maliki's government, and the financial impact of this corruption on the Iraqi people.

e. (U) After discovering this discrepancy between the FP's report, and the interpreter's transcript, I forwarded this discovery, in person to the TOC OIC and Battle NCOIC.

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f. (U) The TOC OIC and, the overhearing Battlecaptain, informed me they didn't need or want to know this information any more. They told me to "drop it" and to just assist them and the FP in finding out where more of these print shops creating "anti-Iraqi literature" might be. I couldn't believe what I heard, and I returned to the T-SCIF and complained to the other analysts and my section NCOIC about what happened. Some were sympathetic, but no-one wanted to do anything about it.

g. (U) I am the type of person who likes to know how things work, and as an analyst, this means I always want to figure out the truth. Unlike other analysts in my section, or other sections within 2-10BCT, I was not satisfied with just scratching the surface, and producing "canned" or "cookie-cutter" assessments. I wanted to know why something was the way it was, and what we could do to correct or mitigate a situation. I knew that if I continued to assist the Baghdad FP in identifying the political opponents of Prime Minister al-Maliki, those people would be arrested, and in the custody of this special unit of the Baghdad FP, very likely tortured and not seen again for a very long time, if ever.

h. (U) Instead of assisting the special unit of the Baghdad FP, I decided to take the information and disclose it to the WLO in the hope that, before the upcoming 7 March 2010 election, they could generate immediate press on the issue, and prevent this unit of the FP from continuing to crack down on political opponents. On 4 March 2010, I burned the report, the photos, the high resolution copy of the pamphlet, and the interpreter's handwritten transcript onto a CD-RW. I took the CD-RW to my CHU and copied the data onto my personal computer.

i. (U) Unlike the times before, instead of uploading the information through the WLO websites' submission form, I made a Secure File Transfer Protocol (SFTP) connection to a "cloud" dropbox operated by the WLO. The dropbox contained a folder that allowed me to upload directly into it. Saving files into this directory allowed anyone with login access to the server to view and download them.

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j. (U) After uploading these files to the WLO on 5 March 2010, I notified Nathaniel over Jabber. Although sympathetic, he said that the WLO needed more information to confirm the event in order for it to be published or to gain interest in the international media. I attempted to provide specifics, but to my disappointment, the WLO website chose not to publish this information.

k. (U) At the same time, I began sifting through information from the U.S. Southern Command (SOUTHCOM) and Joint Task Force (JTF) Guantanamo, Cuba (GTMO). The thought occurred to me, although unlikely, that I wouldn't be surprised if the individuals detained by the FP might be turned over back into U.S. custody and ending up in the custody of JTF-GTMO.

l. (U) As I digested through the information on JTF-GTMO, I quickly found the detainee assessment briefs (DABs). I previously came across these documents before, in 2009, but did not think much of them. However, this time I was more curious and during this search I found them again. The DABs were written in standard DoD memorandum format, and addressed the Commander, U.S. SOUTHCOM. Each memorandum gave basic background information about a specific detainee held at some point by JTF-GTMO.

m. (U) I have always been interested on the issue of the moral efficacy of our actions surrounding JTF-GTMO. On the one hand, I always understood the need to detain and interrogate individuals who might wish to harm the U.S. and our allies. I felt that was what we were trying to do at JTF-GTMO. However, the more I became educated on the topic, it seemed that we found ourselves holding an increasing number of individuals indefinitely that we believed or knew were innocent, low-level "foot soldiers" that didn't have useful intelligence and would be released if they were still held in theater.

n. (U) I also recalled that in early 2009, the then-newly-elected President Barack Obama stated he would close JTF-GTMO and that the facility compromised our standing in the world and diminished our "moral authority." After familiarizing myself with the DABs, I agreed.

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o. (U) Reading through the DABs, I noted that they were not analytical products. Instead, they contained summaries of tear-lined versions of Interim Intelligence Reports (IIRs) that were old or unclassified. None of the DABs contained names of sources or quotes from Tactical Interrogation Reports (TIRs). Since the DABs were being sent to the U.S. SOUTHCOM commander, I assessed that they were intended to provide very general background information on each detainee, and not a detailed assessment.

p. (U) In addition to the manner the DABs were written, I recognized that they were at least several years old, and discussed detainees that were already released from JTF-GTMO. Based on this, I determined that the DABs were not very important from either an intelligence or national security standpoint.

q. (U) On 7 March 2010, during my Jabber conversations with Nathaniel, I asked him if he thought the DABs were of any use to anyone. Nathaniel indicated that although he didn't believe they were of political significance he did believe that they could be used to merge into the general historical account of what occurred at JTF-GTMO. He also thought that the DABs might be helpful to the legal counsel of those currently and previously held at JTF-GTMO.

r. (U) After this discussion, I decided to download the DABs. I used an application called "WGet" to download the DABs. I downloaded WGet off the NIPRNet laptop in the T-SCIF like other programs. I saved that onto a CD-RW and placed the executable in "My Documents" directory of my user profile on the DCGS-A SIPRNet workstation.

s. (U) On 7 March 2010, I took the list of links for the DABs and WGet downloaded them sequentially. I burned the DABs onto a CD-RW and took it to my CHU and copied them to my personal computer. On 8 March 2010, I combined the DABs with the USACIC report on the WLO into a compressed "zip" file. Zip files contain multiple files which are compressed to reduce their size. After creating the zip file, I uploaded the file onto their "cloud" dropbox via SFTP. Once these were uploaded, I notified Nathaniel that the information was in the "x" directory, which had been assigned for my use.

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t. (U) Earlier that day, I downloaded the USACIC report on WLO. As discussed above, I previously reviewed the report on numerous occasions and, although I had saved the document onto workstation before, I could not locate it. After I found the document again, I downloaded it to my workstation and saved it onto the same CD-RW as the DABs, described above.

u. (U) Although I my access included a great deal of information, I decided I had nothing else to send to the WLO after sending them the DABs and the USACIC report. Up to this point I sent them the following:

- (1) The CIDNE-I and CIDNE-A SIGACT tables.
- (2) The "10REYKJAVIK13" DOS cable.
- (3) The 12 July 2007 AWT video and the 2006 and 2007 ROE documents.
- (4) The SIGACT report and supporting documents concerning the 15 individuals detained by the Baghdad FP.
- (5) The U.S. SOUTHCOM and JTF-GTMO DABs.
- (6) The USACIC report on the WLO and website.

v. (U) Over the next few weeks, I did not send any additional information to the WLO. I continued to converse with Nathaniel over the Jabber client, and in the WLO IRC channel. Although I stopped sending documents to WLO, no one associated with the WLO pressured me into giving more information. The decisions that I made to send documents and information to the WLO and website were my own decisions, and I take full responsibility for my actions.

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10. (U) Facts regarding the unauthorized storage and disclosure of other government documents.

a. (U) On 22 March 2010, I downloaded two documents. I found these documents over the course of my normal duties as an analyst. Based on my training and the guidance of my superiors, I looked at as much information as possible. Doing so provided me with the ability to make connections others might miss.

b. (U) On several occasions during the month of March, I accessed information from a government entity. I read several documents from a section within this government entity. The content of two of these documents upset me greatly. I had difficulty believing what this section was discussing.

c. (U) On 22 March 2010, I downloaded the two documents that I found troubling. I compressed them into a zip file named "blah.zip" and burned them onto a CD-RW. I took the CD-RW to my CHU and saved the file to my personal computer. I uploaded the information to the WLO website using the designated drop-box.

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11. (U) Facts regarding the unauthorized storage and disclosure of the NCD DOS cables.

a. (U) In late March I received a warning over Jabber from Nathaniel that the WLO website would be publishing the AWT video. He indicated that the WLO would be very busy and the frequency and intensity of our Jabber conversations decreased significantly.

b. (U) During this time, I had nothing but work to distract me. I read more of the diplomatic cables published on the DOS NCD server. With my insatiable curiosity and interest in geopolitics, I became fascinated with them. I read not only cables on Iraq, but also about countries and events I found interesting. The more I read, the more I was fascinated by the way we dealt with other nations and organizations. I also began to think that they documented backdoor deals and seemingly criminal activity that didn't seem characteristic of the de facto leader of the free world.

c. (U) Up to this point during the deployment, I had issues I struggled with and difficulty at work. Of the documents released, the cables are the only one I was not absolutely certain couldn't harm the U.S. I conducted research on the cables published on NCD, as well as how DOS cables work in general. In particular, I wanted to know how each cable was published on SIPRNet via the NCD.

d. (U) As part of my open-source research, I found a document published by DOS on its official website. The document provided guidance on caption markings for individual cables and handling instructions for their distribution. I quickly learned that caption markings clearly detail the sensitivity level of a DOS cable. For example, "NODIS" (No Distribution) was used for messages of the highest sensitivity, and were only distributed to the authorized recipients. The "SIPDIS" (SIPRNet Distribution) caption was applied only to reporting and other informational messages that were deemed appropriate for release to a wide number of individuals.

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e. (U) According to the DOS guidance for a cable to have the SIPDIS caption it could not include any other captions that were intended to limit distribution. The SIPDIS caption was only for information that could be shared with anyone with access to SIPRNet. I was aware that thousands of military personal, DoD, DOS, and other civilian agencies had easy access to the cables. The fact that the SIPDIS caption was only for wide distribution made sense to me given that the vast majority of the NCD cables were not classified.

f. (U) The more I read the cables, the more I came to the conclusion that this type of information should become public. I once read and used a quote on open diplomacy written after the First World War, and how the world would be a better place if states would avoid making secret pacts and deals with and against each other. I thought these cables were a prime example of the need for a more open diplomacy. Given all the DOS information I read, the fact that most of the cables were unclassified, and that all of the cables had the SIPDIS caption, I believed that the public release of these cables would not damage the U.S. However, I did believe the cables might be embarrassing, since they represented very honest opinions and statements behind the backs of other nations and organizations. In many ways, these cables are a catalog of cliques and gossip. I believed exposing this information might make some within the DOS and others unhappy.

g. (U) On 28 March 2010, I began downloading a copy of the SIPDIS cables using the program WGet described above. I used instances of the WGet application to download the NCD cables in the background, as I worked on my daily tasks. The NCD cables were downloaded from 28 March 2010 to 9 April 2010. After downloading the cables, I saved them onto a CD-RW. These cables went from the earliest dates in NCD to 28 February 2010. I took the CD-RW to my CHU on 10 April 2010. I sorted the cables on my personal computer, compressed them using the BZip2 compression algorithm described above, and uploaded them to the WLO via the designated dropbox described above.

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h. (U) On 3 May 2010, I used WGet to download an update of the cables for the months of March 2010 and April 2010, and saved the information onto a zip file and burned it to CD-RW. I then took the CD-RW to my CHU and saved them to my computer.

i. (U) I later found that the file was corrupted during the transfer. Although I intended to resave another copy of these cables, I was removed from the T-SCIF on 8 May 2010, after an altercation.



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12. (U) Facts regarding the unauthorized storage and disclosure of the Gharani (Farah province), Afghanistan 15-6 investigation and videos.

a. (U) In late March 2010, I discovered a U.S. CENTCOM directory on a 2009 airstrike in Afghanistan. I was searching CENTCOM for information I could use as an analyst. As described above, this was something that myself and other analysts and officers did on a frequent basis.

b. (U) As I reviewed the documents, I recalled the incident and what happened. The airstrike occurred in the Gharani village in the Farah Province of Northwestern Afghanistan. It received worldwide press coverage during the time as it was reported that up to 100 to 150 Afghan civilians, mostly women and children, were accidentally killed during the airstrike.

c. (U) After going through the report and its annexes, I began to view the incident as being similar to the 12 July 2007 AWT engagements in Iraq. However, this event was noticeably different in that it involved a significantly higher number of individuals, larger aircraft, and much heavier munitions. Also, the conclusions of the report are even more disturbing than those of the 12 July 2007 incident.

d. (U) I did not see anything in the 15-6 report or its annexes that gave away sensitive information. Rather, the investigation and its conclusions help explain how this incident occurred and what those involved should have done, and how to avoid an event like this from occurring again.

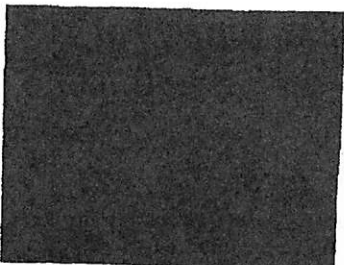
e. (U) After reviewing the report and its annexes, I downloaded the 15-6 investigation, PowerPoint presentations, and several other supporting documents to my DCGS-A workstation. I also downloaded three zip files containing the videos of the incident. I burned this information onto a CD-RW and transferred it to the personal computer in my CHU. Either later that day or the next day, I uploaded the information to the WLO website, this time using a new version of the WLO website submission form. Unlike other times using the submission form above, I did not activate the TOR anonymizer.



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13. (U) This concludes my statement and facts for this  
providence inquiry. The point of contact (POC) for this  
memorandum is the undersigned at HHC, USAG, Joint Base Myer-  
Henderson Hall, Fort Myer, Virginia 22211.



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

IN RE: GRAND JURY SUBPOENA ) Case 1:19-dm-00003  
FOR CHELSEA MANNING )  
 ) Alexandria, Virginia  
 ) March 5, 2019  
 ) 9:34 a.m.  
 ) Pages 1 - 32

TRANSCRIPT OF UNDER SEAL HEARING  
BEFORE THE HONORABLE CLAUDE M. HILTON  
UNITED STATES DISTRICT COURT JUDGE

COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

UNDER SEAL

Rhonda F. Montgomery OCR-USDC/EDVA (703) 299-4599

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1 THE CLERK: Case No. 19-3, *In Re Grand Jury*  
2 *Subpoena Regarding Chelsea Manning*.

3 MR. TRAXLER: Good morning, Your Honor.  
4 Tommy Traxler on behalf of the United States. With me  
5 at counsel table is Gordon Kromberg, Tracy McCormick,  
6 Kellen Dwyer, and Nicolas Hunter also on behalf of the  
7 United States, Your Honor.

8 THE COURT: All right.

9 MR. LEIBIG: Good morning, Judge. Chris  
10 Leibig for Ms. Manning. With me is Sandra Freeman and  
11 Moira Meltzer-Cohen.

12 As an initial matter, Judge, I would ask that  
13 you grant my motion to move Ms. Meltzer-Cohen *pro hac*  
14 vice for this matter.

15 THE COURT: All right. The motion is  
16 granted.

17 MR. LEIBIG: Thank you, sir.

18 MS. FREEMAN: Good morning, Your Honor.  
19 Sandra Freeman on behalf of Ms. Manning.

20 As a preliminary matter, I would request the  
21 Court first take up our motion to unseal the pleadings,  
22 and I would join that with a motion to open the  
23 courtroom to the public.

24 THE COURT: All right.

25 MS. FREEMAN: Yes, sir. I just wanted to

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1 make sure the Court received the pleadings filed  
2 yesterday and the motion to unseal the pleadings.

3 THE COURT: I have.

4 MS. FREEMAN: Judge, the matter before the  
5 Court today is not a matter occurring before the grand  
6 jury as we are not in front of the grand jury. The  
7 pleadings filed on Ms. Manning's behalf by counsel are  
8 not subject to the secrecy provisions in Rule 6(e), and  
9 Ms. Manning, as a witness, is not contemplated by the  
10 secrecy rules of 6(e).

11 The pleadings that we filed before you,  
12 specifically the motion to quash and the motion to  
13 unseal, do not contain any information about what has  
14 occurred before the grand jury. The United States  
15 Attorneys have not disclosed any of the information  
16 that they are prohibited from disclosing. The  
17 information that we have put before the Court within  
18 our pleadings and the information that we anticipate  
19 arguing to you today are all matters that are already  
20 within the sphere of public knowledge and that are not  
21 protected by the secrecy provisions within the law.

22 The motion to quash in and of itself is not  
23 something that is subject to the rules of grand jury  
24 secrecy.

25 We would ask the Court to authorize

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1 disclosure of the pleadings filed as to Ms. Manning  
2 with the exception, of course, of Ms. Manning's  
3 declaration that is sealed and secret pursuant to the  
4 personal identifying detail provisions in the rules  
5 regarding redaction.

6           The rules around grand jury secrecy, first, I  
7 think are explicit in that they say that no one other  
8 than those listed in 6(e)(2)(B) shall be required to  
9 adhere to the rules of secrecy. The persons are  
10 identified, such as the attorneys for the government  
11 and court personnel. Of course, those people are  
12 subject to the provisions, and they are explicitly  
13 identified.

14           It's clear from the rule, from the advisory  
15 committee notes to the rule, and from case law from  
16 various circuits interpreting the rule that the witness  
17 herself, the pleadings that we have filed that do not  
18 contain nonpublic information regarding the nonpublic  
19 proceedings before the grand jury are not subject to  
20 those secrecy provisions.

21           What we are asking today is that the Court  
22 authorize unsealing of the motion to quash filed on  
23 Ms. Manning's behalf, authorize unsealing of the motion  
24 to unseal, and we would further ask the Court open the  
25 courtroom to the public for arguments on these matters.

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1 Of course, the public has no right to be  
2 present for the grand jury itself. The public and  
3 press have no First Amendment right of access. We are  
4 not requesting that the public or the press or even  
5 counsel have any access to the actual proceedings  
6 before the grand jury.

7 Our request here is for these proceedings  
8 specifically before you regarding whether or not to  
9 quash Ms. Manning's subpoena, regarding whether or not  
10 to unseal the pleadings, that those matters the public  
11 does have a particularized interest and a right of  
12 access to be present. Ms. Manning has a right for the  
13 public to be able to be present for specifically these  
14 arguments that do not involve protected information and  
15 material.

16 There are questions and tests set out. We  
17 have to show a particularized need and that those  
18 materials were present and opening of the courtroom  
19 would be needed to avoid injustice at other  
20 proceedings. This is another proceeding being  
21 contemplated by the rule. We are not asking the Court  
22 to open up the proceedings of the grand jury itself.  
23 We are asking that these proceedings particularly be  
24 opened. The request has been narrowly tailored as to  
25 these pleadings.

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1           So based on all of that, we would ask that  
2 the Court be opening the pleadings and the public  
3 information, the information that has already been  
4 disclosed and revealed by both the government and by  
5 socialists throughout the past decade, to be accessible  
6 by the public and the hearing as well.

7           THE COURT: All right.

8           MR. TRAXLER: Thank you, Your Honor.

9           As a preliminary matter, I want to observe  
10 that the government has not received a copy of the  
11 motion to unseal. So we don't have the benefit of  
12 responding to the specific arguments that were in that  
13 pleading. But instead, we just heard about it today  
14 from Ms. Manning's counsel. We would oppose  
15 Ms. Manning's request to open the courtroom and to  
16 unseal the pleadings in this matter.

17           First, I want to take up opening the  
18 courtroom. Rule 6(e)(5), Your Honor, states, and I  
19 quote, that aside from criminal contempt proceedings,  
20 the Court must close any hearing to the extent  
21 necessary to prevent disclosure of a matter occurring  
22 before a grand jury.

23           We would submit, Your Honor, that this entire  
24 hearing concerns a matter occurring before a grand  
25 jury, and that is a subpoena that the grand jury has

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1 issued for Ms. Manning to testify in connection with a  
2 grand jury investigation. That investigation is  
3 ongoing. It's hard to imagine, Your Honor, how we can  
4 have an effective hearing this morning without  
5 discussing or potentially discussing matters that are  
6 occurring before a grand jury.

7           Moreover, the pleadings and the hearing  
8 directly involve matters occurring before the grand  
9 jury. Rule 6(e) would preclude the government from  
10 confirming Ms. Manning's subpoena, a matter occurring  
11 before a grand jury; Ms. Manning's immunity order,  
12 another order that was issued in connection with a  
13 matter occurring before a grand jury; and other items.

14           So practically speaking, Your Honor, we  
15 wouldn't be able to have an effective hearing if the  
16 government is constantly evaluating under Rule 6(e)  
17 whether it can say certain things because the media is  
18 present in the courtroom. So we would submit, Your  
19 Honor, that Rule 6(e)(5) answers the question this  
20 morning, and that is the hearing, because it addresses  
21 a matter occurring before the grand jury, should be  
22 closed.

23           With respect to sealing, Your Honor, I would  
24 direct the Court's attention to the following  
25 subsection of Rule 6(e), and that's Rule 6(e)(6). That

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1 specifically states that records, orders, and subpoenas  
2 relating to grand jury proceedings must be kept under  
3 seal to the extent and as long as necessary to prevent  
4 the unauthorized disclosure of a matter occurring  
5 before a grand jury.

6           Your Honor, at the outset, we would submit,  
7 having not had the benefit of receiving the pleading  
8 that Ms. Manning filed yesterday, that the Court should  
9 defer ruling on unsealing at this time. There is no  
10 reason to go to a rushed judgment today. There is too  
11 much at stake, and whatever the Court's ruling is, it  
12 would likely be appealed to the Fourth Circuit.

13           Instead, let the parties brief this issue in  
14 due course, and that would give the parties an  
15 opportunity to work through these issues. It would  
16 also give the Court an opportunity to make a considered  
17 judgment in light of full briefing and the parties'  
18 views on the issue.

19           But if the Court is inclined to rule today,  
20 we would oppose unsealing all of the pleadings and  
21 papers that they request be unsealed.

22           Just to reiterate, the fact that Ms. Manning  
23 has been subpoenaed to testify in an ongoing grand jury  
24 proceeding is a matter occurring before the grand jury.  
25 Again, the fact that she's been granted immunity is

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1 directly contemplated in the advisory notes of  
2 Rule 6(e)(5) as being a matter that should be sealed,  
3 as being paper that should be sealed, and is a matter  
4 occurring before the grand jury. Therefore, the briefs  
5 that talk about that immunity order and the subpoena,  
6 those are related to an ongoing grand jury proceeding  
7 and should be sealed.

8 Thank you, Your Honor.

9 THE COURT: All right. Well, I find that  
10 Rule 6(e)(5) and Rule 6(e)(6) require that we go  
11 forward with these matters at this point in time under  
12 seal and also that the courtroom be closed for the  
13 hearing.

14 The government hasn't had time to respond to  
15 your brief. I will give time for you all to look  
16 further at this issue as to what ought to be unsealed  
17 or not unsealed.

18 As far as the hearing on the motion to quash  
19 this grand jury subpoena, that's a matter before the  
20 grand jury, and we'll go forward with the courtroom  
21 closed.

22 MS. MELTZER-COHEN: Good morning, Your Honor.  
23 So thank you for hearing us this morning, Your Honor.

24 We understand that this is a robust and  
25 complicated motion, so I will try to simplify it. This

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1 is an omnibus motion. The motion to quash is an  
2 omnibus motion that contains several smaller motions  
3 within it, many of which contain arguments that  
4 interact with each other or are somewhat overlapping.

5 Each of the quash motions in our omnibus  
6 motion represents an independent legal basis that would  
7 constitute just cause for objecting to the subpoena  
8 generally. Each of these quash motions might also  
9 constitute grounds to object to individual questions  
10 that would be propounded before the grand jury.

11 So to the extent that the government has said  
12 that some of these motions may be premature, they're  
13 not entirely incorrect because it is true that we can't  
14 litigate these issues today with respect to questions  
15 that we have not yet heard. But these motions may be  
16 appropriate both today and then, again, revisited after  
17 Ms. Manning hears questions.

18 THE COURT: Aren't you conceding the  
19 government's position in regard to what questions may  
20 be asked? I don't know how I can rule on that. I have  
21 no idea what questions are there. You don't have any  
22 idea what questions are there. Clearly, we can't go  
23 forward with today; can we?

24 MS. METZLER-COHEN: Judge, I'm sorry. Your  
25 Honor, what I'm suggesting and I believe what the law

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1 says is we can object to the subpoena generally, and we  
2 can also, you know, in a later hearing object on  
3 similar or the same grounds to individual questions.

4 So what's not premature here are the  
5 following issues: With regard to Ms. Manning's Fifth  
6 Amendment privileges, it would appear that the  
7 government has worked to moot this issue by not only  
8 securing an immunity order from you but by securing a  
9 parallel order from the military.

10 So, first, as we said in the motion, we do  
11 have concerns about a perjury trap. Ms. Manning gave  
12 extensive and truthful testimony at her court marshal.  
13 If you look at the document that's appended to the  
14 government's reply, you will, in fact, see the  
15 painstaking detail with which Ms. Manning accounted for  
16 each instance of her conduct. I mean down to file  
17 names, Your Honor.

18 So if the government intends to question her  
19 about any of the same matters, which the reply seems to  
20 suggest they do, she's sort of faced with the choice of  
21 reiterating her previous answers, which the government  
22 appears not to accept, or being untruthful, which she  
23 refuses to do.

24 Ms. Manning has not given and would not give  
25 untruthful testimony. However, since her prior

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1 testimony made clear that she acted alone and since we  
2 have been advised that she is herself not a target in  
3 this investigation, it would appear that the government  
4 may harbor an interest in undermining her previous  
5 testimony since it doesn't inculcate anyone else who  
6 might be a target.

7 THE COURT: Aren't you getting back where we  
8 were just a minute ago? You're saying if or what.  
9 There's no way of knowing this. This is just entire  
10 speculation. I can't base a ruling on that.

11 MS. METZLER-COHEN: Okay. Judge, I think  
12 I -- I think it's important for me to make the record  
13 of the argument here. So if you'll --

14 THE COURT: Well, you have that in your  
15 papers, but go ahead and make your argument quickly.  
16 It seems to me we're right at the same ground we were  
17 before.

18 MS. METZLER-COHEN: Okay. I will attempt to  
19 be clear and quick.

20 THE COURT: Well, that is, we can't base a  
21 decision on that.

22 MS. METZLER-COHEN: Okay.

23 THE COURT: I mean, you can conjure up  
24 anything, or I could too. Who knows whether that's  
25 going to happen or not?

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1 MS. METZLER-COHEN: Well, Judge, there are  
2 questions as to the subpoena as a whole that I think  
3 deserve to be heard and are ripe for review today. So,  
4 you know, if in case the subpoena has been propounded  
5 with an interest in either coercing perjury or  
6 attempting to build a case against Ms. Manning for  
7 perjury, you know, in order to undermine her as a  
8 potential defense witness, since the immunity order  
9 can't immunize that potential perjury, she retains an  
10 interest in not testifying.

11 I do also want to clarify for the record that  
12 the government correctly repeated my statement of the  
13 law with respect to foreign prosecution. It is  
14 absolutely the case that the Supreme Court ruled in  
15 *Balsys*, which both of us cite, that the immunity order  
16 and immunity orders coextensive with the Fifth  
17 Amendment privilege and that that privilege extends  
18 only to domestic and not foreign prosecution. I am not  
19 suggesting that it does extend to foreign prosecution  
20 but that because the immunity order does not extend to  
21 foreign prosecution, it does create an unresolved  
22 problem for Ms. Manning, which I think is worth  
23 considering.

24 With respect to constitutional rights, it  
25 appears to be the government's position that this

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1 challenge is premature. While we, of course, agree  
2 that we can't make arguments today about grand jury  
3 questions that we haven't yet heard, there are other  
4 issues with respect to the subpoena generally, again,  
5 that can be heard today.

6 As mentioned, Ms. Manning has disclosed to  
7 the government everything she can about her involvement  
8 in the 2010 disclosures for which she took full  
9 responsibility. If the government wishes to question  
10 her further about these issues, as I said before, we  
11 have concerns about a perjury trap.

12 But maybe they have interest in asking her  
13 about subjects beyond those disclosures, and that would  
14 be very concerning because Ms. Manning has no  
15 information material or relevant to any other violation  
16 of federal law. So we can only conclude at that point  
17 that the government wants to ask questions of  
18 Ms. Manning that do not implicate any crimes. That  
19 would be information to which the grand jury is not  
20 entitled because it would be an obvious violation of  
21 her First Amendment expressive and associational  
22 rights.

23 As we discussed in our pleadings, there is a  
24 long and well-documented history with grand juries  
25 being used for improper purposes, specifically to

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1 disrupt communities of activists and journalists who  
2 are engaged in lawful and constitutionally valuable  
3 activities. Ms. Manning is not bringing this up in  
4 order to assert the constitutional rights of  
5 journalists or other third parties but to ensure that  
6 the issue of the grand jury's purpose here and the  
7 issue of this particular subpoena here is duly  
8 considered.

9           The administration has been very publicly  
10 hostile to the press. This administration has also  
11 been very publicly hostile to Ms. Manning. The highest  
12 ranking government officials have called her out by  
13 name and called for her reincarceration and expressed  
14 displeasure at her release. So tremendous executive  
15 pressure has been brought to bear on issues that are  
16 implicated by this grand jury with respect to the  
17 press, and tremendous executive pressure has been  
18 brought to bear more specifically on Ms. Manning, who  
19 is the subject of this individual subpoena.

20           So we think it makes sense for Ms. Manning to  
21 be worried about a possible improper motive for this  
22 subpoena in general. We believe that that issue is  
23 ripe today.

24           We have, of course, expressed our concerns  
25 about the potential for a perjury trap and our concerns

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1 that this grand jury subpoena is being used to  
2 undermine Ms. Manning potentially as a witness, put her  
3 in jeopardy of contempt and reincarceration, or to go  
4 on a fishing expedition to constitutionally protected  
5 activity.

6 As the government noted, there is a  
7 presumption of regularity that attaches to grand jury  
8 proceedings. There is -- either must be a real  
9 compelling need for judicial intervention into grand  
10 jury proceedings, but we think that's present here.  
11 Because once evidence of abuse has been introduced, it  
12 is the prosecution that must demonstrate that  
13 regularity.

14 Ms. Manning, of course, is not in a position  
15 to introduce highly specific concrete evidence of  
16 abuse. But given the kind of attention that she has  
17 been subject to, it is absolutely reasonable for her to  
18 balk at being compelled to cooperate with a government  
19 that has been actively and publicly hostile to her. We  
20 believe that the prosecution should be called upon to  
21 establish the regularity, not simply this grand jury  
22 proceeding but specifically of this subpoena.

23 The electronic surveillance motion we believe  
24 is also ripe for review but might also be appropriately  
25 revisited after questioning before the grand jury.

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1 Unlawful electronic surveillance, if used to propound a  
2 subpoena or any question before a grand jury, would  
3 constitute just cause excusing testimony. The subject  
4 of covert surveillance is rarely well positioned to  
5 prevent overwhelming evidence of that surveillance, and  
6 Ms. Manning is no exception.

7 That is why the law is well settled that  
8 making even an allegation or at most, I think, in this  
9 circuit a colorable claim of electronic surveillance is  
10 sufficient to trigger the government's obligation to  
11 either affirm or deny that electronic surveillance took  
12 place. This is not a particularly onerous task for  
13 them, and we think it's worth noting that the  
14 government did not make such a denial in their reply.

15 The government's argument here on the law is  
16 a little misplaced. Ms. Manning certainly has standing  
17 to object to any electronic surveillance that would  
18 have led to -- any unlawful electronic surveillance of  
19 her that would have led to this subpoena or to  
20 questions that may occur before it.

21 The case that is cited by both Ms. Manning  
22 and the government, *U.S. v. Apple*, makes clear that a  
23 cognizable claim -- and this is a quote from the  
24 case -- need be no more than a mere assertion but must  
25 have a colorable basis.

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1           While this circuit may overwhelmingly find  
2 that government denials of electronic surveillance are  
3 sufficient to defeat this kind of claim, making a  
4 colorable claim suffices to trigger the government's  
5 obligation. So the government would be expected to  
6 make the requisite canvas of agencies and state their  
7 unambiguous denials for the record.

8           So, Your Honor, all we're asking for here is  
9 a very simple answer. You know, to start with, if --  
10 you know, if you ask the government now, "Are you aware  
11 of any electronic surveillance," and if he says, "Yes,  
12 we're done," you know, we know and we can go from  
13 there. If he says no, then all the government has to  
14 do is make the relevant inquiries of the federal  
15 agencies, and either they say yes, this kind of  
16 surveillance happened, or no, it didn't.

17           Your Honor, we also included a motion to  
18 instruct the grand jury to which the government  
19 objects. It is our position -- and I think it is  
20 noncontroversial -- that the grand jurors are entitled  
21 to fully understand not only the full scope of their  
22 rights and power, but also the rights afforded to a  
23 witness called to testify before them. There is  
24 nothing in our set of proposed grand jury instructions  
25 that is legally questionable. Each proposed

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1 instruction is a simple statement of fact regarding the  
2 powers of the grand jury or the rights of the witness.  
3 In that the government painted such a plainly  
4 educational document as in some way controversial is  
5 perplexing and does not necessarily bode well for the  
6 grand jury's independence.

7           Your Honor, there is also a motion for  
8 disclosure of prior statements that I do want to  
9 clarify in light of the government's response to us.  
10 The government has objected to our request for  
11 disclosure of prior statements based on the admittedly  
12 stringent rules around disclosing grand jury testimony.  
13 They are correct also that there is no prior grand jury  
14 testimony to disclose. I want to clarify that with  
15 respect to the law on which this request is based, I am  
16 arguing here by analogy. Presumably, nongrand jury  
17 testimony or other statements that are not bound by  
18 Rule 6 would be significantly less tightly controlled  
19 than grand jury testimony.

20           In preliminary discussions with the  
21 government, counsel was given to understand that the  
22 government believes Ms. Manning may have made prior  
23 statements that were either incorrect or in some way at  
24 variance with her prior statements or testimony.  
25 Ms. Manning, of course, has raised concerns that this

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1 grand jury may be working toward eliciting  
2 contradictory statements or worse, and her perceptions  
3 have not been helped by the public resentment that has  
4 been expressed by other actors in the government. So  
5 one way in which the government might make a show of  
6 good faith here would be to disclose whatever prior  
7 statements they seem to be relying on to justify the  
8 subpoena.

9           It is in no way a violation of grand jury  
10 secrecy to reveal to a witness statements that they  
11 themselves are said to have made. Doing so could have  
12 many collateral benefits, including clarifying  
13 authorship and attribution and refreshing the witness'  
14 recollection. There is certainly no law that forbids  
15 such disclosure, and there does appear to be law both  
16 encouraging and compelling it.

17           The final component of our omnibus motion  
18 concerns our motion to disclose ministerial documents,  
19 and Ms. Freeman will speak to that now. I thank you,  
20 Your Honor.

21           MS. FREEMAN: Thank you, Your Honor. Just  
22 briefly, I would reincorporate everything that I said  
23 regarding our motion to unseal in that I think that the  
24 law that applies in terms of determining what is a  
25 matter that occurs before the grand jury also applies

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1 to this when you're looking at the analysis under  
2 Rule 6(e). Cases are clear not only from the Ninth  
3 Circuit but from circuits across the country that  
4 documents reflecting the commencement and termination,  
5 reflecting that the grand jury has been -- a term has  
6 been extended, records of impanelment to include  
7 manuals, procedures, and the impanelment instructions,  
8 that none of those issues have been held to be matters  
9 occurring before the grand jury. It would not affect  
10 deliberations of a grand jury for us to know them. It  
11 would not potentially undermine the integrity of the  
12 investigation or any witness' testimony to the grand  
13 jury itself.

14 THE COURT: You have available the  
15 impanelment of this grand jury.

16 MS. FREEMAN: No, sir, we do not.

17 THE COURT: It was impaneled in the  
18 courtroom; wasn't it?

19 MS. FREEMAN: Judge, we do not have any of  
20 the documents reflecting the --

21 THE COURT: Every grand jury I've impaneled  
22 is done here in the open courtroom.

23 MS. FREEMAN: Understood, Judge. It is  
24 something that we would request access to. It appears  
25 that the --

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1 THE COURT: I don't have it. I don't know if  
2 the clerk has it somewhere. There is some record of it  
3 around here; isn't it? We don't impanel the grand jury  
4 in secret.

5 MS. FREEMAN: Judge, I think the issue is  
6 that the -- what different courts and what different  
7 clerks -- I think that it is understandable the clerks  
8 would be acting in abundance of caution in refusing to  
9 disclose some of those documents. It's our position  
10 that things, such as an impanelment --

11 THE COURT: While they're here, that's a  
12 matter of information they may not give out, as to who  
13 in particular is sitting on a grand jury.

14 MS. FREEMAN: Yes. We would not be  
15 requesting identifying information of who those grand  
16 jurors are. These would just be documents basically  
17 affecting the form and function, the mode, if you will,  
18 of operation of this particular grand jury, not  
19 regarding persons specifically on the grand jury, not  
20 regarding witnesses who have testified before it, but  
21 simply the -- what we would call the ministerial  
22 documents.

23 THE COURT: That's impaneling the grand jury  
24 and the termination of the grand jury when it's over.

25 MS. FREEMAN: Yes, sir. So that would be the

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1 request. It's not for any of the private information.

2 THE COURT: All right. I understand.

3 MS. FREEMAN: Thank you, Judge.

4 All right. Mr. Traxler.

5 MR. TRAXLER: Thank you, Your Honor.

6 Your Honor, I'd like to pick up where the  
7 Court began, and that is that Ms. Manning's arguments  
8 today are premature. As Your Honor noted, there has  
9 been no questioning yet. Ms. Manning has not appeared  
10 before the grand jury. So she can only speculate that  
11 the questions that might be asked would infringe upon  
12 the rights that she cites in her papers. As we  
13 explained in our submission, such premature arguments  
14 should be rejected. They should be normally answered  
15 on a question-by-question basis.

16 That said, Your Honor, we did argue  
17 alternatively that this motion could be denied on its  
18 merits. We would, in fact, urge the Court, if it's so  
19 inclined, to deny the motion on its merits now. We  
20 submit that the advantage of doing that would be it  
21 would hopefully reduce the number of times or eliminate  
22 the parties coming up here during the actual grand jury  
23 questioning to have the Court rule on various issues  
24 that have already been teed up in the papers.

25 So with that, I would like to address the

UNDER SEAL

1 merit arguments that Ms. Manning makes in her papers.  
2 First would be her Fifth Amendment claim. As the  
3 government argued in its papers, under *Kastigar*  
4 (phonetic), there are no Fifth Amendment concerns here.  
5 Ms. Manning has received full use and derivative use  
6 immunity for her testimony by both this Court and the  
7 Department of the Army. Under *Kastigar*, that  
8 eliminates any Fifth Amendment concerns.

9           The next argument Ms. Manning makes is a  
10 First Amendment claim, and the government submits, as  
11 we argued in our papers, that she has not asserted any  
12 legitimate First Amendment interest that could be  
13 infringed upon.

14           We submit, Your Honor, that the Supreme  
15 Court's decision in *Branzburg v. Hayes* forecloses  
16 Ms. Manning's arguments. There the Supreme Court held  
17 that reporters had to testify in front of the grand  
18 jury even if it required them to disclose their  
19 sources. The reporters argued that they should have a  
20 First Amendment privilege to not have to go before the  
21 grand jury because disclosing those sources would have  
22 an inhibiting effect for reporters to recruit sources  
23 and it would diminish the flow of news. The Supreme  
24 Court rejected that argument. It held it was  
25 speculative. We submit, Your Honor, that Ms. Manning

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1 has an even weaker claim than the reporters had in  
2 *Branzburg*.

3 Even assuming the questioning in the grand  
4 jury were to touch on the disclosures from 2009 and  
5 2010, Ms. Manning had no First Amendment rights with  
6 respect to those disclosures. As the government noted  
7 in its papers, Ms. Manning was a government insider who  
8 signed a nondisclosure agreement, and under  
9 well-established precedent, that means that she had no  
10 First Amendment rights.

11 Ms. Manning talks about the concerns that the  
12 questioning would have for journalists. I'll say at  
13 the outset: Certainly, Ms. Manning seems to be  
14 speculating that at some future date the grand jury may  
15 return an indictment that she speculates might violate  
16 the First Amendment. That's not a legitimate basis,  
17 Your Honor, for a fact witness to refuse to testify in  
18 front of the grand jury. If it was, the whole grand  
19 jury process would break down if every fact witness who  
20 came in front of the grand jury could speculate that  
21 the crimes being investigated might violate someone  
22 else's constitutional rights. She has no standing to  
23 make that argument.

24 Next, Your Honor, Ms. Manning argues that the  
25 grand jury subpoena was improperly motivated, and we

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1 emphasize to the Court that Ms. Manning's speculations  
2 are exactly that. They are mere speculations. As the  
3 cases that we cited in our papers show, speculation and  
4 conjecture is not enough to rebut the long-standing  
5 presumption that the grand jury acts reasonably and  
6 properly when it issues a subpoena.

7           Your Honor, I want to address in particular  
8 one thing that we heard throughout counsel's argument,  
9 and that is the speculation that the government issued  
10 a grand jury subpoena just so it could catch  
11 Ms. Manning in a so-called perjury trap. Again, we  
12 emphasize to the Court that's just speculation as to  
13 what the government's motives are. There's no basis  
14 for that.

15           We also submit, Your Honor, that that  
16 argument is premature. Any concerns about an alleged  
17 perjury trap are properly raised if there was some  
18 charge for perjury at a future date. It's not a  
19 justification for a fact witness to refuse to go in  
20 front of the grand jury.

21           Finally, Your Honor, we submit that  
22 Ms. Manning has not provided the Court with a colorable  
23 basis for believing that the government has -- I'm  
24 sorry -- that she might have been subjected to unlawful  
25 electronic surveillance. As the Court noted in its

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1 papers, there's certain threshold requirements that  
2 Ms. Manning has to meet to even trigger the  
3 government's obligation to affirm or deny or generally  
4 respond to her allegations. She has to come forward  
5 with something more than mere suspicion that she might  
6 have been subjected to unlawful electronic  
7 surveillance.

8           If you read her papers, she clearly has not  
9 done that. You can tell by the way she couches her  
10 argument throughout her papers, that she has reason to  
11 believe, that she believes she might have been subject  
12 to unlawful electronic surveillance. The truth is she  
13 has no idea, and she is using this statute improperly  
14 as an attempt to get discovery from the government.  
15 Therefore, the government submits that Ms. Manning is  
16 not entitled to even that threshold affirmance or  
17 denial from the government about whether there is any  
18 such surveillance in this case.

19           There is one last topic I want to touch on,  
20 and that's the ministerial documents issue that counsel  
21 raised just a moment ago. I would emphasize that, as  
22 Judge Ellis noted in the decision we cited in our  
23 papers, the Fourth Circuit has not adopted the approach  
24 of the cases that Ms. Manning cites. We submit that  
25 Ms. Manning, if there is anything done in open court,

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1 should figure out on her own what's available. If it's  
2 not available because it was not done in open court, we  
3 submit she should not receive those materials.

4           There is no right of access to the grand jury  
5 proceedings. Ms. Manning has provided no justification  
6 or no need or has not provided any justification or  
7 explained why she needs those documents. In light of  
8 that, we submit to the Court that the general rule of  
9 secrecy should apply here and she should not receive  
10 any documents relating to the grand jury proceedings  
11 that have not otherwise already been done in open  
12 court.

13           So with that, Your Honor, we would rest on  
14 our papers for the rest of the arguments. We submit  
15 that the Court should deny the motion to quash. It's a  
16 bedrock principal, a long-standing principal in our  
17 jurisprudence that the grand jury is entitled to every  
18 person's evidence. We submit that Ms. Manning is no  
19 different. She has been lawfully subpoenaed to testify  
20 in the grand jury. The Court has ordered her to  
21 testify already fully and truthfully in front of the  
22 grand jury. She's been fully immunized with use and  
23 derivative use testimony -- I'm sorry -- immunity in  
24 connection with her testimony. Like every other  
25 citizen in this nation, Ms. Manning should be required

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1 to appear before the grand jury pursuant to the  
2 subpoena and to testify fully and truthfully. We  
3 submit that there is no reason to treat Ms. Manning  
4 differently than we would any other civilian in  
5 responding to a grand jury subpoena.

6 Thank you, Your Honor.

7 THE COURT: All right. Well, as I've  
8 listened to the arguments here, it's almost like  
9 listening to lawyers discussing a case that they're  
10 looking into and finding out what issues are involved.  
11 This whole thing is just really speculation about what  
12 may or may not happen. Most of this is really  
13 premature except your issue of the Fifth Amendment. I  
14 find that you have no rights in that regard because of  
15 the immunity order that I've entered, and you have one  
16 from the military. I also find that there's no First  
17 Amendment implication here that's been represented to  
18 me or that I can even get my hands around to rule on.  
19 There just isn't anything.

20 There's no evidence presented of any improper  
21 motive. You've raised questions about what might or  
22 might not be the motive. I don't have anything in  
23 front of me that would require me to rule on it.

24 Also, your motion to instruct the grand jury,  
25 I see no need to instruct the grand jury.

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1 Your motion for disclosure of prior  
2 statements, that's going to be denied as well.  
3 Disclosing the ministerial documents here, I don't see  
4 any relevancy that's been presented to me that would  
5 require that at all.

6 So with that said, your motion to quash the  
7 subpoena will be denied.

8 Now, I don't know if you want to set a time  
9 frame on this unsealing or whatever it is, time to  
10 respond to it. I mean, I'll deal with that.

11 MR. TRAXLER: Your Honor, the government  
12 would request two weeks to prepare a response. Like I  
13 mentioned, we still need to receive the papers from  
14 Ms. Manning and then time to formulate a response.

15 THE COURT: All right. Why don't you all get  
16 together on that. Two weeks sounds reasonable. Just  
17 notice it to a Friday, and I'll deal with it when you  
18 get ready to argue it again.

19 MR. TRAXLER: We will. Thank you, Your  
20 Honor.

21 MR. KROMBERG: If I may, Your Honor. Our  
22 time before the grand jury is tomorrow at 9:30. We ask  
23 the Court -- we just let the Court know that so in case  
24 these issues recur tomorrow or new issues come up  
25 tomorrow, that's when we're expecting to be before the

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1 grand jury.

2 THE COURT: Well, I hope that I have dealt  
3 with enough of them that we won't have any problems  
4 like that. If not, I'll be around.

5 MR. KROMBERG: Thank you, Your Honor.

6 THE COURT: All right. We'll adjourn until  
7 tomorrow morning at 9:30.

8 -----  
Time: 10:15 a.m.

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I certify that the foregoing is a true and  
accurate transcription of my stenographic notes.

/s/  
Rhonda F. Montgomery, CCR, RPR

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Rhonda F. Montgomery OCR-USDC/EDVA (703) 299-4599

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

-----:  
:  
IN RE: Grand Jury Subpoena :  
:  
CHELSEA MANNING :  
:  
:  
-----:

Case No. 1:19-DM-3

18-4/10-GJ-3793

PARTIAL TRANSCRIPT  
(Open Court Proceedings)

March 8, 2019

Before: Claude M. Hilton, USDC Judge

APPEARANCES:

Tracy Doherty-McCormick, Gordon D. Kromberg, Kellen S. Dwyer,  
Thomas W. Traxler, Matthew R. Walczewski, and Nicholas Hunter,  
Counsel for the United States

Moira Meltzer-Cohen and Christopher Leibig,  
Counsel for C. Manning

Chelsea Manning, in person

1 NOTE: After certain matters are heard with the  
2 courtroom sealed, the courtroom is opened to the public and the  
3 hearing continues as follows:

4 THE COURT: All right. Now, the Government, you were  
5 getting ready to tell me something about sentencing.

6 MS. McCORMICK: Good morning, Your Honor.

7 The Government just wanted to respond to Ms.  
8 Manning's counsel's request that given the Court's ruling on no  
9 just cause and holding Ms. Manning in contempt, that Ms.  
10 Manning should be sentenced to home confinement.

11 And under Section 1826, the Government just does not  
12 believe that home confinement will have the coercive effect to  
13 have Manning comply with the subpoena.

14 As Manning's counsel stated, the Government has  
15 worked with the Marshals Service and with the Sheriff's  
16 Department at ADC, at the Alexandria Detention Center, for the  
17 last two days since having found out about Ms. Manning's  
18 medical needs. The safety of Ms. Manning is, obviously, a  
19 concern and something that all of us share to make sure that  
20 she would be safe in any environment.

21 We first received notice of Ms. Manning's medical  
22 needs on Wednesday. And since that time we have spent great  
23 lengths to make sure that Ms. Manning's post-surgical medical  
24 needs can be accommodated at the Alexandria Detention Center.

25 The Government has already shared a declaration with

1 Manning's counsel and has submitted that to the Court, and I am  
2 just going to read quickly some of the relevant portions of it.  
3 And this is a declaration by Chief Deputy Joseph Pankey from  
4 the Alexandria Sheriff's Office.

5 As described in the declaration the Alexandria  
6 Detention Center is confident that it can accommodate Ms.  
7 Manning's ongoing medical needs. In fact, transgender inmates  
8 are not uncommon in the ADC. And in the past it has  
9 accommodated requests from a similarly situated inmate.

10 Ms. Manning would be assigned to female housing, and  
11 the ADC would work to ensure her safety and privacy.

12 Now, of course, because it is a detention center,  
13 they can't guarantee absolute privacy because they also have  
14 the added duties of maintaining safety and security.

15 However, the ADC did say that in consultation with  
16 medical staff, that they reviewed the information that was  
17 provided by Ms. Manning's counsel concerning the device that is  
18 needed, and they have no issue with the device. They have no  
19 issue with the prescribed hormones needed.

20 They do have an issue with the narcotic because that  
21 is just not allowed in a detention center.

22 The dilator would be retained by the medical unit and  
23 would be provided to Ms. Manning as prescribed by her doctor  
24 three times a day for 20 minutes per day.

25 Now, what the prescription is is sort of a moving

1 target here because we were first told one prescription. We  
2 received the prescription in writing yesterday, and that said  
3 another set of times and minutes. And the stack of information  
4 I received today has different prescriptions again.

5 So the Government doesn't need to get involved in  
6 that. We have spoken to the Sheriff's Office, and the  
7 Sheriff's Office has said that they are confident that they  
8 will work with Ms. Manning's doctor, and with Ms. Manning's  
9 counsel, and with Ms. Manning, and they will be able to safely  
10 accommodate her medical needs and respect her privacy within  
11 the confines of the detention center.

12 As you know, Your Honor, the ADC has accommodated  
13 inmates with very significant medical issues, and they have  
14 also successfully and safely dealt with inmates of notoriety.

15 So at the end of the day, after we spent a full day  
16 yesterday on the phone with Manning's counsel, the Sheriff, the  
17 Deputy Sheriff, and Chief Dean from the Marshals Service, who  
18 are here if you need to have any questions answered, but we  
19 provided the declaration, and we think that is sufficient, we  
20 believe that under 1826 the Alexandria Detention Center is a  
21 suitable place. It is not a perfect place, it doesn't give Ms.  
22 Manning everything she wants, but that is not the requirement.  
23 The requirement is a suitable place.

24 In fact, to be clear, the Government doesn't want to  
25 confine Ms. Manning. The Government has all along hoped that

1 Ms. Manning would come in, comply with the valid Court order,  
2 comply with the subpoena, and testify. Ms. Manning could  
3 change her mind right now, it is her choice. If she chooses  
4 not to comply, however, the law provides consequences because  
5 if a witness could come in every day and choose what to comply  
6 with and what not to comply with, or whether not to comply at  
7 all, the entire system would break down.

8 This is really at the base a rule of law issue. Ms.  
9 Manning is not above the law, and the law requires her to  
10 testify. The Government, above all else, wishes she would. We  
11 hope she changes her mind now.

12 And if she does not, the Government recommends that  
13 because it's a suitable place of confinement and because it is  
14 necessary to secure her compliance with a valid Court order,  
15 that Ms. Manning be confined to the Alexandria Detention Center  
16 under the terms of 1826.

17 Thank you.

18 THE COURT: All right. I will give you five minutes  
19 to respond.

20 MS. MELTZER-COHEN: Thank you, Judge. Thank you,  
21 Your Honor.

22 The Government is correct that the only lawful  
23 purpose for confinement under the recalcitrant witness statute  
24 is its coercive effect. Confinement may not be used simply to  
25 cause harm.

1           In this case, they are also correct that Ms. Manning  
2 is not above the law. And Ms. Manning is prepared to suffer  
3 the consequences of confinement for what you have ruled is a  
4 contempt.

5           But that if she were confined to ADC, it would simply  
6 cause harm to her. You have heard and you have seen and been  
7 given documents and letters about her recent surgery. The  
8 unique medical needs that arise from that surgery, both  
9 physical and mental health needs.

10           And at the end of the day, notwithstanding the  
11 Government's efforts, their declaration still says that this  
12 device will be allowed if the documentation is appropriate.  
13 And we still have an e-mail from Chief Pankey saying that: We  
14 cannot make guarantees.

15           We understand that they are acting in good faith, but  
16 we believe, respectfully, that it is not possible for them to  
17 make the kinds of guarantees that would need to be made in  
18 order to ensure that Ms. Manning's health is not placed at  
19 serious, grave risk.

20           Again, Judge, it is quite clear that you have the  
21 discretion to sentence Ms. Manning to home confinement rather  
22 than a jail. The statute indicates that a recalcitrant witness  
23 may be confined at what is called in the statute "a suitable  
24 place." We believe that her home is a suitable place, and that  
25 a jail or a prison is not.

1 I urge you to exercise your discretion here to  
2 confine Ms. Manning to her one-bedroom apartment for the term  
3 of the grand jury as opposed to allowing her to be placed in a  
4 carceral environment that could give rise to immediate and  
5 unresolvable Eighth, Fifth, and Fourteenth Amendment issues.  
6 And that would be, essentially, an act of tremendous cruelty as  
7 opposed to the kind of coercive impact that is contemplated by  
8 1826.

9 Thank you.

10 THE COURT: All right. Ms. Manning, would you come  
11 to the podium.

12 Is there anything you would want to say before I  
13 impose the sentence?

14 MS. MANNING: Just that -- whatever happens, I will  
15 accept whatever you bring upon me, Your Honor.

16 THE COURT: All right. Well, I found you in contempt  
17 of my order requiring you to testify before the grand jury.  
18 And it will be the sentence of the Court you be committed to  
19 the custody of the Attorney General until such time as you  
20 either purge yourself of the contempt or for the life of this  
21 grand jury.

22 MS. MANNING: Yes, Your Honor.

23 MS. MELTZER-COHEN: Your Honor --

24 MR. LEIBIG: Your Honor, may I be heard briefly on  
25 one point? Not contesting your ruling. An additional matter.



1 THE COURT: Yes.

2 MR. LEIBIG: Judge, I wanted to make a motion that  
3 within your schedule permitting, if you would consider setting  
4 a brief hearing some day soon. For example, Monday or Tuesday.

5 My intention for asking for that would be that I  
6 would check on Ms. Manning this weekend after a couple of days  
7 to see how things are working under the orders. Again, we  
8 don't know -- there has been no guarantee made about what will  
9 happen.

10 If we had a hearing in court set for any time within  
11 your schedule Monday or Tuesday, I think that would be  
12 appropriate to check on how she adjusted in the intake and  
13 everything else. Because these treatments and such are  
14 multiple times per day, and there is a complexity to it.

15 THE COURT: Well, no, no, I am not going to do that.  
16 For one practical matter, I am not going to be here next week.  
17 But I would be available for any kind of messages.

18 But the treatment you are going to have to work out  
19 with the Marshals. They are fully capable of giving the  
20 medical care and the medical treatment, and you need to work  
21 that out with them instead of trying to get me to do it.

22 If some problem develops that you need to raise an  
23 issue with me, why I'll be available, you just call my office.

24 MR. LEIBIG: Okay. Judge, we can do that early next  
25 week by calling the Clerk if something did develop of an

1 emergency nature?

2 THE COURT: Talk to the Government, call the Clerk,  
3 whatever. If there is a problem, it can always be addressed.  
4 But now, I'm not going to get involved in this medical  
5 treatment. That's for the Marshals to do. Okay?

6 MR. LEIBIG: Thank you, sir.

7 THE COURT: All right. And we have still got a civil  
8 case, don't we?

9 All right, we will take a brief recess, and I will  
10 come back and hear the civil case.

11 MR. KROMBERG: Thank you, Your Honor.

12 MS. McCORMMICK: Thank you, Your Honor.

13 -----  
14 HEARING CONCLUDED

15

16

17

18

19

20 I certify that the foregoing is a true and  
21 accurate transcription of my stenographic notes.

22

23

24 /s/ Norman B. Linnell  
25 Norman B. Linnell, RPR, CM, VCE, FCRR

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	1:19-DM-3
	)	
CHELSEA MANNING,	)	
	)	
Defendant	)	

---

NOTICE OF APPEAL

Notice is hereby given that Chelsea Manning, through counsel, hereby appeals to the United States Court of Appeals to the United States Court of Appeals for the Fourth Circuit from the Order entered in this action on the 8<sup>th</sup> day of March, 2019 finding her in contempt of court and committing her to the custody of the Attorney General.

THE LAW OFFICE OF CHRISTOPHER LEIBIG

\_\_\_\_\_/S/\_\_\_\_\_  
\_\_\_\_\_

Christopher Leibig  
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Alexandria, VA 22314  
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March 13, 2019

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

IN RE: ) UNDER SEAL  
 ) (Pursuant to Local Criminal Rule 49 and  
 ) Fed. R. Crim. P. 6(e))  
 GRAND JURY CASE NO. 10-GJ-3793 )  
 ) Case No. 1:19-DM-3  
 )  
 ) GRAND JURY NO. 18-4  
 )

**GOVERNMENT'S RESPONSE TO MOTION TO UNSEAL**

The United States respectfully submits this response to Chelsea Manning's Motion to Unseal. In her motion, Manning requests that the Court unseal the pleadings related to her Motion to Quash filed on March 1, 2019. In light of the contempt proceedings that were conducted in open court, the United States does not oppose this request. As a result, the United States submits that the Court may unseal (1) the Motion to Quash (with the exception of the Declaration of Chelsea Manning, which Manning asks be kept under seal), (2) the Government's Response in Opposition to the Motion to Quash, filed on March 4, 2019, (3) the transcript of the March 5, 2019 hearing on the Motion to Quash, (4) the Motion to Unseal, filed on March 4, 2019, and (5) this response.<sup>1</sup> The United States has attached a proposed order to this effect.

<sup>1</sup> Manning has not moved to unseal the transcript of the closed portion of the contempt proceedings. The Court should keep that transcript under seal because it reveals questions that were asked of Manning during the grand jury proceeding. Consistent with well-established caselaw, the Court properly closed the courtroom during that portion of the contempt proceeding and then opened the courtroom for the remainder of the proceeding. *See, e.g.,* Fed. R. Crim. P. 6(e)(5) advisory committee's notes to 1983 amendments; *Levine v. United States*, 362 U.S. 610, 614-15 (1960); *United States v. Index Newspapers LLC*, 766 F.3d 1072, 1090-91 (9th Cir. 2014); *United States v. Smith*, 123 F.3d 140, 149 n.13 (3d Cir. 1997); *In re Grand Jury Subpoena*, 97 F.3d 1090, 1094-95 (8th Cir. 1996).

Because the United States does not oppose the relief sought in the Motion to Unseal, the Court need not conduct a hearing on it.

Respectfully submitted,

G. Zachary Terwilliger  
United States Attorney

By:

  
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**CERTIFICATE OF SERVICE**

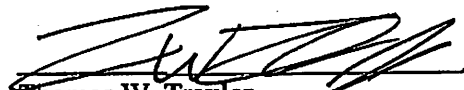
I hereby certify that on the 18th day of March, 2019, I caused the foregoing document to

be sent to the following via electronic mail:

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Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

IN RE:

) Case No. 1:19-DM-3

GRAND JURY CASE NO. 10-GJ-3793

) GRAND JURY NO. 18-4

**PROPOSED ORDER**

This matter is before the Court on Chelsea Manning's Motion to Unseal. The Government does not oppose the motion. The Motion to Unseal is GRANTED. The Clerk's Office shall unseal the following filings: (1) the Motion to Quash filed by Chelsea Manning on March 1, 2019, (2) the Response in Opposition to the Motion to Quash filed by the Government on March 4, 2019, (3) the transcript of the March 5, 2019 hearing on the Motion to Quash, (4) the Motion to Unseal filed by Chelsea Manning on March 4, 2019, and (5) the Response to the Motion to Unseal filed by the Government on March 18, 2019. The Clerk's Office shall not unseal the Declaration of Chelsea Manning that was submitted as an exhibit to her Motion to Quash. All other sealed filings and transcripts shall remain under seal until further notice from the Court.

IT IS SO ORDERED.

  
THE HONORABLE CLAUDE M. HILTON  
UNITED STATES DISTRICT JUDGE

Date: Mar. 20, 2019  
Alexandria, Virginia